Supreme Court, U.S.
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(8)

No. 08-1287

IN THE
Supreme Court of the United States

FAMILY DOLLAR STORES, INC.,

Petitioner,

v.

JANICE MORGAN, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

REPLY APPENDIX

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Table C-3 – Private Civil Cases – Labor Suits Only - Commenced during the 12-month period ending 09/20/2008		
District	2008 Filings	Percentage
DC	133	0.810%
1st	376	2.290%
2nd	1,976	12.034%
3rd	1,394	8.490%
4th	892	5.432%
5th	943	5.743%
6th	1,498	9.123%
7th	2,067	12.588%
8th	941	5.731%
9th	2,271	13.831%
10th	350	2.132%
11th	3,579	21.797%
Total Filings	16,420	100.000%

Table C-3A - Private Civil Cases - Labor Suits Only - PENDING during the 12-month period ending 09/20/2008		
District	2008 Filings	Percentage
DC	129	0.866%
1st	412	2.766%
2nd	2,010	13.494%
3rd	943	6.331%
4th	617	4.142%
5th	876	5.881%
6th	1,267	8.506%
7th	1,494	10.030%
8th	757	5.082%
9th	2,135	14.333%
10th	333	2.235%
11th	3,923	26.336%
Total Filings	14,896	100.000%

Table C-3 - Private Civil Cases - Labor Suits Only - Commenced during the 12-month period ending 09/20/2007		
District	2007 Filings	Percentage
DC	116	0.636%
1st	392	2.150%
2nd	1,781	9.768%
3rd	1,273	6.982%
4th	973	5.336%
5th	983	5.391%
6th	1,428	7.832%
7th	2,186	11.989%
8th	897	4.920%
9th	2,294	12.582%
10th	340	1.865%
11th	5,570	30.549%
Total Filings	18,233	100.000%

Table C-3A- Private Civil Cases - Labor Suits Only - PENDING during the 12-month period ending 09/20/2007		
District	2007 Filings	Percentage
DC	108	0.751%
1st	427	2.971%
2nd	1,902	13.234%
3rd	899	6.255%
4th	643	4.474%
5th	899	6.255%
6th	1,315	9.150%
7th	1,428	9.936%
8th	737	5.128%
9th	1,957	13.617%
10th	326	2.268%
11th	3,731	25.960%
Total Filings	14,372	100.000%

Table C-3.
U.S. District Courts—Civil Cases Commenced, by Nature of Suit and District, During the 12-Month Period Ending September 30, 2008

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions						Forfeitures and Penalties	Labor Suits	Social Security	All Other
							Motions to Vacate Sentence	Habeas Corpus General	Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other				
	TOTAL	287,257	44,164	3,420	1,619	1,900	2,132	6,352	3,030	6	838	366	698	2,331	368	13,136	7,967
DC		2,438	1,354	59	1	33	283	42	101	-	202	8	15	29	11	23	487
	1ST	6,504	1,450	64	108	80	63	186	66	-	87	2	11	87	21	353	394
ME		427	112	2	1	7	1	20	-	-	-	-	-	4	2	69	6
MA		2,901	704	30	9	36	19	64	56		10	-	10	23	5	119	321
NH		501	130	14		3	4	15	2	-	1	2	-	21	3	46	19
RI		1,259	116	7	-	3	2	20	3	-	1	-	-	7	4	50	19
PR		1,416	368	11	98	31	37	66	2	-	5	-	1	32	7	69	29
	2ND	22,815	3,126	161	66	194	148	395	135	-	35	24	74	226	58	854	756
CT		1,957	346	38	2	19	22	32	23	-	1	-	7	20	14	53	110
NY N		1,395	297	6	2	20	14	30	4	-	-	-	-	35	4	167	15
NY E		6,460	1,033	72	12	78	45	94	42	-	15	1	19	37	24	227	367
NY S		12,125	969	23	4	55	51	183	50	-	13	8	48	47	12	233	232
NY W		1,589	390	20	29	20	14	40	14	-	6	15	-	74	2	135	21
VT		281	91	2	17	2	2	6	2	-	-	-	-	13	2	39	6
	3RD	52,327	3,147	125	133	159	154	301	492	-	131	11	80	133	25	872	531
DE		984	86	2	1	8	7	5	-	-	-	-	2	10	-	38	13
NJ		6,662	903	18	2	57	51	75	106	-	29	1	38	35	11	180	236
PA E		18,296	861	29	14	44	48	123	85	-	-	-	30	10	9	290	178
PA M		2,454	858	19	44	20	19	49	212	-	93	3	8	22	2	107	60
PA W		2,596	597	53	64	19	23	45	27	-	8	4	2	52	2	257	41
VI		345	42	4	8	11	6	1	2			3	-	5	1	-	1
	4TH	18,167	4,051	159	98	191	174	818	308	-	95	25	139	237	19	1,238	454
MD		3,463	899	36	9	68	71	105	7	-	5	-	50	86	3	280	179
NC E		1,432	552	36	1	18	11	73	73	-	20	3	74	33	-	188	22
NC M		978	268	16	-	6	12	109	4	-	3	-	1	37	-	65	15
NC W		1,191	261	20	2	5	9	124	2			-	-	12	1	74	12
SC		4,454	593	24	81	24	8	145	33	-	11	12	3	23	2	191	96
VA E		3,173	593	6	1	41	48	162	51	-	11	10	7	29	5	68	154
VA W		1,177	418	5	1	12	6	112	64	-	21		-	6		170	21
WV N		709	191	7	1	3	3	40	53	-	10	-	4	2	2	58	6
WV S		1,590	276	9	2	14	6	48	21		14	-	-	9	2	144	7

RA2

Table C-3. (September 30, 2008—Continued)

Circuit and District	Private Cases															
	Total Private Civil Cases	Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Conditions and Civil Rights	Prisoner Petitions: Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
TOTAL	223,093	30,752	3,453	453	1,403	3,619	60,953	3,683	30,000	18,268	187	24,375	667	9,573	16,420	19,297
DC	1,084	117	35	-	-	17	166	21	279	16	-	56	2	60	133	182
1ST	5,054	816	229	14	45	63	1,169	146	801	250	-	306	16	297	376	528
ME	315	70	4	1	6	4	28	15	76	14	-	22	-	28	15	30
MA	2,197	405	24	13	29	23	229	102	344	181	-	147	14	190	224	298
NH	371	60	8	-	1	8	36	3	60	46	-	44	1	33	22	42
RI	1,143	84	138	-	4	13	697	17	72	18	-	21	-	17	29	32
PR	1,029	196	55	-	5	15	183	4	246	11	-	72	-	23	86	126
2ND	19,689	3,728	123	98	124	409	3,456	325	3,579	929	-	1,461	43	1,070	1,976	2,368
CT	1,611	259	22	22	4	27	145	43	434	46	-	139	-	90	111	279
NY,N	1,099	100	10	15	-	27	60	21	232	162	-	258	-	60	70	83
NY,E	4,420	470	33	16	81	180	424	73	1,154	240	-	197	6	189	771	812
NY,S	11,155	2,754	46	45	38	143	2,709	171	1,480	328	-	624	35	694	946	1,140
NY,W	1,205	98	11		1	23	91	13	233	142	-	241	2	49	67	238
VT	199	47	1	-	-	9	27	4	46	11	-	12	-	8	9	16
3RD	40,180	2,457	345	73	71	542	34,317	339	3,234	1,000	17	1,995	25	848	1,384	2,345
DE	808	93	2		3	22	18	7	110	75	1	176	1	214	24	152
NJ	5,749	942	77	5	41	183	754	140	902	176	-	652	9	361	722	765
PA,E	18,435	684	38	60	10	213	32,274	144	1,319	411	12	513	4	279	350	824
PA,M	1,798	236	136	5	-	66	84	22	370	180	1	395	5	33	75	232
PA,W	1,999	251	31	3	6	26	112	20	478	230	3	316	1	97	218	247
VI	303	-	61	-	11	12	76	6	29	8	-	13	5	2	6	25
4TH	14,116	1,880	172	10	50	349	2,697	266	1,774	1,301	11	3,068	158	548	892	922
MD	2,564	407	45	1	10	35	276	66	388	98	-	491	117	97	290	243
NC,E	880	124	15	-	10	13	80	20	134	67	4	147	2	128	50	72
NC,M	710	94	13		1	2	125	8	138	108	2	111	3	47	28	40
NC,W	930	158	8	-	1	10	347	15	122	41	1	67	-	59	39	62
SC	3,861	421	19	-	17	105	703	55	393	446	1	1,270	16	50	254	111
VA,E	2,580	415	20	1	7	55	328	59	355	319	2	415	14	139	173	278
VA,W	759	57	8	1	-	22	58	16	64	66	1	305	2	17	44	46
WV,N	578	79	21	-	-	25	56	2	67	81	-	182	3	7	23	32
WV,S	1,254	153	23	7	4	22	714	25	78	53	-	80	1	4	51	58

RA3

Table C-3. (September 30, 2008—Continued)

Circuit and District	Total Civil Cases	U.S. Cases															
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Prison Civil Rights	Prisoner Petitions: Prison Condition	Prisoner Petitions: Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
5TH	31,707	5,161	880	333	233	214	921	495	-	126	10	32	217	21	936	743
LA,E	8,325	300	44	11	70	28	31	2	-	3	1	2	3	1	52	52
LA,M	917	103	3	2	2	2	19	-	-	1	-	-	2	-	23	49
LA,W	2,102	448	36	10	26	11	54	79	-	18	4	1	1	1	162	44
MS,N	981	122	7	1	8	3	20	1	-	-	-	-	9	-	67	6
MS,S	2,996	228	32	8	24	13	39	32	-	11	1	-	17	2	31	18
TX,N	4,055	871	24	8	20	47	150	131	-	26	2	10	10	5	169	269
TX,E	2,866	480	3	2	6	11	92	130	-	45	1	4	24	1	124	89
TX,S	6,330	1,734	644	279	36	44	276	67	-	19	1	10	64	6	140	149
TX,W	3,185	875	87	12	41	52	240	53	-	3	-	5	87	5	182	128
6TH	20,778	4,536	623	260	131	182	499	113	1	60	79	39	233	53	1,771	472
KY,E	1,720	878	8	120	33	12	46	70		49	70	3	14	2	436	15
KY,W	1,338	306	20	74	3	4	28	3	1	12	5	2	29	1	105	18
MI,E	5,442	1,088	438	7	29	55	55	8	-	3	-	20	67	6	231	158
MI,W	1,681	240	22	6	6	9	46	9		2	-	2	9	1	100	23
OH,N	4,068	619	70	13	15	32	90	7		4		7	29	19	255	72
OH,S	2,666	585	48	14	16	26	60	4	-	4	-	5	35	14	311	56
TN,E	1,225	286	12	13	6	4	75	3	-	1	-	-	-	6	160	16
TN,M	1,525	282	2	14	7	18	40	-	-	-	-	-	23	2	86	90
TN,W	1,217	241	2	2	14	10	58	9	-	5	4	-	27	2	84	24
7TH	15,783	2,201	118	125	103	144	378	92	-	38	16	7	119	35	561	465
IL,N	7,681	822	15	10	55	78	111	16	-	15	8	5	26	22	128	333
IL,C	1,047	220	13	24	2	9	50	6	-	-	4	-	11	3	79	19
IL,S	929	174	16	12	13	5	36	42	-	4	2	-	13	1	19	12
IN,N	1,471	233	21	19	6	16	44	-	-	1			19	3	84	10
IN,S	2,704	382	31	50	15	22	66	10	-	3	1	-	15	3	136	30
WI,E	1,164	191	12	4	8	11	34	3	-	1	1	1	18	3	65	30
WI,W	787	179	11	6	4	3	37	15	-	14	-	1	17	-	40	31
8TH	18,708	3,044	181	107	78	116	473	181	-	24	26	15	125	26	1,385	298
AR,E	4,723	390	14	13	6	14	33	58	-	2	21	-	2	-	210	17
AR,W	865	331	14	4	2	2	12	-	-	-	-	-	8	-	277	12
IA,N	551	266	14	20	-	1	67	5	-	-	-	-	12	1	139	7
IA,S	765	247	3	24	6	8	48	9	-	1	1	7	11	-	118	11
MN	6,186	336	45	10	12	14	32	37	-	10	-	-	17	6	54	99
MO,E	2,250	461	30	4	15	31	89	8	-	5	1	4	41	6	201	26
MO,W	2,013	625	38	2	18	26	81	52	-	2	3	1	13	11	297	61
NE	751	205	20	14	6	6	61	5	-	1	-	3	16	1	40	30
NC	267	79	11	15	2	4	22	4	-	-	-		5	1	11	4
SD	342	101	1	-	9	7	28	3	-	3	-	-	-	-	38	11

RA4

Table C-3. (September 30, 2008—Continued)

Circuit and District	Total Private Civil Cases	Private Cases: Contract	Real Property	FELA[1]	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions: Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
5TH	26,546	8,488	480	45	572	763	3,611	443	2,598	2,791	33	2,852	52	1,048	943	1,835
LA E	8,025	5,041	22	9	354	188	1,207	84	257	202	1	198	2	34	85	349
LA M	814	178	14	1	17	61	111	13	101	56	-	186	2	8	27	39
LA W	1,654	315	71	7	101	98	291	29	186	116	-	309	1	16	66	48
MS N	858	119	12	-	1	35	130	78	205	90	1	118	1	11	33	22
MS S	2,768	897	165	1	13	117	678	25	216	102	2	342	7	7	75	61
TX N	3,184	488	56	5	2	55	151	55	510	658	11	562	13	195	157	259
TX E	2,388	387	27	11	10	88	175	27	180	442	7	381	7	358	80	182
TX S	4,566	777	81	8	73	70	711	92	513	659	6	458	8	192	273	637
TX W	2,290	286	32	3	1	51	153	40	420	433	5	297	11	218	137	203
6TH	10,242	2,178	603	48	71	318	2,178	308	3,114	1,959	16	1,668	42	641	1,498	1,804
KY E	642	188	14	1	1	36	141	25	140	43	2	81	2	29	60	79
KY W	1,030	179	11	2	22	43	126	22	192	92	-	153	4	20	103	61
MI E	4,364	647	98	20	35	55	191	99	733	842	1	365	8	206	461	502
MI W	1,341	122	18	2	3	11	33	17	175	260	-	386	2	38	96	167
OH N	3,498	413	287	10	3	48	1,032	46	473	318	3	137	22	129	287	269
OH S	2,071	269	163	8	5	18	110	33	560	238	4	104	-	95	246	211
TN E	827	113	17	3	1	45	154	21	207	37	2	117		32	73	105
TN M	1,243	121	5	-	-	23	277	28	316	74	2	170	2	34	109	62
TN W	976	124	9	2	1	39	105	17	318	54	2	145	2	37	63	58
7TH	13,862	1,648	124	66	27	191	753	300	2,981	1,196	7	1,788	16	667	2,067	1,861
IL N	6,858	874	61	10	18	76	302	202	1,526	178		529	9	335	1,427	1,269
IL C	827	75	12	7	-	9	46	7	177	59	-	268	1	17	86	63
IL S	755	70	4	19	7	23	111	21	109	40	-	184	1	21	53	92
IN N	1,238	145	11	6	2	34	78	19	300	215	3	205	-	30	98	94
IN S	2,322	204	28	10	-	42	170	23	563	511	4	303	-	92	216	175
WI E	963	116	4	3	-	3	30	21	198	126	-	149	3	56	113	121
WI W	618	64	4	-	-	2	16	7	118	67	-	151	2	66	76	45
8TH	16,664	1,306	103	28	9	184	8,018	379	1,513	758	4	1,385	12	387	941	637
AR E	4,333	124	13	6	2	34	3,290	24	240	103	3	396	-	16	43	37
AR W	529	106	7	3	-	16	58	17	78	21	-	147	-	10	29	37
IA N	285	45	6	-	-	3	24	4	66	35	-	55	1	7	19	20
IA S	518	71	3	4	-	9	38	7	104	53	-	112	3	27	54	33
MN	3,650	311	23	3	1	15	4,094	141	312	134	-	86	-	145	390	195
MO E	1,798	285	13	-	6	41	207	120	285	164	1	205	5	110	220	127
MO W	1,385	205	21	1	-	40	174	44	230	168	-	244	1	28	124	104
NE	540	97	8	4	-	11	43	7	146	33	-	65	2	28	40	50
ND	188	21	8	5	-	6	66	10	18	8	-	19	-	8	11	16
SD	241	42	1	-	-	9	35	5	34	39	-	56	-	7	5	10

[1] FELA = Federal Employers' Liability Act

RA5

Table C-3. (September 30, 2008—Continued)

Circuit and District	Total Civil Cases	U.S. Cases															
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Habeas Corpus General	Habeas Corpus Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
9TH	39,909	8,610	583	147	431	367	983	918	1	89	6	127	475	61	2,596	2,225
AK	361	112	8	3	28	5	17	-	-	1	-	1	17	1	19	12
AZ	3,539	976	39	28	60	32	347	123	-	3	4	9	23	6	125	176
CA N	6,175	892	65	6	54	61	36	16	-	15	2	5	36	10	97	486
CA E	4,607	705	11	8	26	20	68	70	-	42	-	12	54	4	277	114
CA C	14,130	2,854	324	11	39	92	121	165	1	13	-	19	155	20	1,023	809
CA S	2,650	525	28	33	47	41	138	15	-	2		50	64	2	48	150
HI	578	113	13	6	14	14	43	1	-	-	-	-	4	2	6	30
ID	576	128	10	7	5	6	19	-		-	-	-	3	1	49	25
MT	610	174	15	17	15	7	52	1			-	-	3	-	34	30
NV	2,568	781	10	8	21	22	45	5	-	5	-	23	47	2	17	76
OR	2,204	685	31	9	18	17	36	4	-	3	-	7	27	6	445	86
WA E	650	272	5	5	12	8	29	3	-	1	-	-	9	-	170	27
WA W	2,938	772	23	3	32	36	44	114	-	2	-	1	31	4	288	194
GUAM	22	9	-	-	3	-	4	-	-	1	-	-	-			
NMI	58	12		-	-	4	4	-	-	-	-	-	2	-		2
10TH	9,918	2,388	107	93	109	120	372	158	-	26	111	11	120	23	783	365
CO	2,877	649	7	5	20	40	43	110		9	101	1	21	8	137	147
KS	1,517	408	14	17	9	17	62	41		16	9	6	32	6	149	29
NM	1,267	277	17	5	38	20	70	1	-	-	1	-	33	2	64	25
OK N	751	214	17	20	11	2	34					-	4	-	110	6
OK E	498	192	6	16	10	4	25	-	-	1	-	-	5	-	116	9
OK W	1,450	315	34	22	13	15	49	-		-	-	1	5	4	128	44
UT	1,190	275	7	6	9	19	59	-	-	-	-	1	16	2	74	79
WY	326	68	5	2	1	3	30	-	-	-	-	-	4	1	5	7
11TH	28,205	5,088	350	148	158	188	885	293	3	75	48	48	330	19	1,766	777
AL N	2,461	468	23	11	7	15	51	29		3	-	1	27	1	273	27
AL M	1,102	225	10	2	8	10	27	2		1	-	3	8	1	148	5
AL S	762	187	11	-	6	5	40	-	-	-	-		9	-	94	22
FL N	1,732	451	35	3	14	24	65	30	-	-	10	2	70	1	149	48
FL M	7,593	1,536	65	107	61	37	220	125	3	50	24	10	39	4	593	207
FL S	7,815	1,170	132	10	36	39	283	64		7	14	15	65	6	206	293
GA N	4,621	821	52	11	12	41	101	39		14	-	16	75	4	138	120
GA M	1,132	250	16	-	3	9	44	-		-	-	-	34	-	108	36
GA S	967	176	6	2	11	8	54	4	-	-	-	1	10	2	59	19

RAS

Table C-3. (September 30, 2008—Continued)

Circuit and District	Private Cases																
	Total Private Civil Cases	Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Conditions and Civil Rights	Prisoner Petitions: Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
9TH	31,299	3,782	616	43	156	204	1,685	608	4,635	5,273	39	5,328	185	2,740	2,271	3,526
AK	249	66	8	-	7	5	30	2	49	34	-	7	2	4	17	18
AZ	2,563	317	143	-	*	33	108	89	460	389	3	980	2	165	94	310
CA N	5,243	492	69	1	18	12	422	87	649	785	3	1,001	14	478	551	723
CA E	3,102	231	23	7	5	21	105	52	742	1,180	3	1,274	17	76	133	232
CA C	9,270	1,164	164	5	7	35	362	254	1,200	1,601	5	842	7	1,394	819	1,187
CA S	2,025	248	42	-	12	3	82	36	289	398	2	367	5	194	112	255
HI	465	97	10	-	24	6	40	14	128	23	-	50	2	16	26	27
ID	448	67	8	-	-	5	17	8	60	57	-	140	-	22	26	38
MT	436	95	15	1	-	12	50	16	65	45	-	84	4	3	15	31
NV	2,307	415	58	2	1	38	164	45	380	240	22	437	32	137	110	226
OR	1,553	214	9	5	7	20	87	33	359	214	-	183	108	72	119	142
WA E	376	34	5	10	-	2	28	7	97	34	-	97	-	16	16	32
WA W	2,156	333	50	11	75	11	83	35	347	150	1	275	2	161	228	324
GUAM	14	3	1	-	-	-	3	-	2	2	-	-	-	2	1	-
NMI	34	6	-	-	1	1	4	-	18	1	-	-	-	-	2	1
10TH	7,618	1,283	107	32	6	240	738	127	1,756	649	14	951	14	397	350	854
CO	2,226	578	25	10	4	44	149	30	364	202	2	351	-	137	88	444
KS	1,105	162	10	5	-	60	123	33	238	93	-	172	3	40	87	83
NM	980	142	15	2	-	47	85	14	398	61	-	102	1	23	37	62
OK N	577	124	7	1	-	11	65	7	168	51	2	34	3	21	48	35
OK E	306	36	11	4	-	14	31	4	90	35	-	57	1	1	7	15
OK W	1,126	201	15	3	1	24	152	9	288	136	8	110	5	30	37	113
UT	915	202	18	3	1	17	97	26	144	39	1	91	1	142	40	93
WY	258	38	5	4	-	23	36	4	66	30	-	34	-	3	6	9
11TH	23,119	3,165	618	7	272	339	2,167	421	3,536	2,065	48	3,518	93	780	3,579	2,625
AL N	1,993	307	25	-	-	50	153	27	488	161	5	323		41	182	221
AL M	877	99	3	-	-	38	70	22	196	116	3	239	5	7	36	39
AL S	605	170	33	-	13	17	52	20	113	41	1	71	-	7	18	49
FL N	1,281	117	10	-	6	18	68	6	323	244	5	352	7	25	60	40
FL M	6,055	736	78	1	27	70	703	76	856	641	18	603	12	220	1,419	535
FL S	6,645	1,096	171	3	214	29	611	108	681	329	11	414	31	265	1,609	1,063
GA N	4,000	460	180	-	2	61	409	141	627	262	-	810	31	179	185	553
GA M	882	80	10	-	-	30	62	13	152	110	2	317	3	24	42	37
GA S	781	90	8	3	10	20	39	8	86	161	1	289	4	12	16	28

*FELA = FEDERAL EMPLOYERS' LIABILITY ACT

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Table C-3A.
U.S. District Courts—Civil Cases Pending, by Nature of Suit and District, During the 12-Month Period Ending September 30, 2008

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions						Forfeitures and Penalties	Labor Suits	Social Security	All Other
							Motions to Vacate Sentence	Habeas Corpus General	Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other				
TOTAL	298,129	37,669	1,686	1,698	2,190	2,574	5,630	1,839	34	654	256	280	2,223	284	12,516	5,805
DC	2,837	1,512	76	1	37	383	77	169	-	120	2	8	61	14	31	533
1ST	7,038	1,251	38	35	102	99	226	25	-	32	2	8	103	10	293	278
ME	296	78			6	4	17	-	-	-	-	-	3	1	50	3
MA	2,992	602	15	9	53	33	78	24		23	-	7	28	5	95	328
NH	454	97	5	-	2	5	5		-	-	2	-	25	1	32	16
RI	1,627	118	8	-	3	2	19	1	-	1	-	-	7	-	59	18
PR	1,666	356	6	28	38	55	112	-	-	6	-	1	40	3	57	10
2ND	37,180	3,273	123	67	273	195	474	108	-	33	23	43	204	33	1,086	611
CT	2,234	255	18	2	22	24	27	19	-	4		2	12	5	54	66
NYN	2,119	268	3	2	28	16	32	2	-				26	3	335	22
NYE	7,162	1,066	65	18	116	74	158	34	-	15	2	15	41	12	254	261
NYS	22,798	976	14	4	76	53	205	36	-	6	10	25	46	10	255	237
NYW	2,603	437	23	27	27	26	45	17	-	6	11	-	66	3	150	34
VT	266	71	-	14	2	2	7	-	-	-	-	-	13		28	5
3RD	69,334	2,429	70	84	176	170	272	252	1	109	19	17	93	25	701	440
DE	1,264	111	1	1	11	9	13	-	-	-	-	-	13	1	46	16
NJ	6,216	645	14	4	62	54	66	61		17	1	5	22	12	158	165
PAE	16,426	982	12	9	36	36	104	32	-	3	-	3	7	5	219	116
PAM	2,108	439	12	10	20	24	39	114	1	85	4	3	21	-	81	27
PAW	2,084	423	20	27	17	20	37	25	-	3	9	1	22	2	196	44
VI	1,186	229	11	33	30	27	13	20	-	3	5	2	8	5	1	1
4TH	13,872	3,385	89	48	177	182	773	168	-	67	24	107	192	13	1,278	267
MD	3,001	746	31	7	59	81	95	2	-	2		30	55	2	239	112
NCE	1,438	568	27	2	19	26	86	53	-	16	12	92	32	-	170	21
NCM	828	270	6	-	12	12	59	3	-	2	-	-	42	2	113	17
NCA	887	207	5		3	11	93	-	-	-	-		15	1	55	14
SC	3,357	484	10	31	26	9	143	12	-	1	4	1	17	1	200	29
VAE	1,571	276	2	-	24	27	84	23	-	5	7	3	17	3	46	35
VAW	644	270	1	3	14	4	58	8	-	11	-	-	7	-	135	19
WVN	614	199	4	3	9	3	56	38	-	14	1	1	1	3	58	9
WVS	1,532	357	3	2	11	9	79	29	-	13	-	-	6	1	192	12

Table C-3A. (September 30, 2008—Continued)

Circuit and District	Total Private Civil Cases	Private Cases													
		Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Conditions and Civil Rights	Prisoner Petitions: Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
TOTAL	268,460	27,466	2,745	509	1,670	3,795	107,969	4,477	32,408	17,924	738	18,066	389	8,832	14,896	18,466
DC	1,325	153	37	-	-	27	185	26	358	12	-	48	1	70	129	278
1ST	6,787	656	238	27	74	74	1,589	152	1,831	235	-	305	13	271	412	583
ME	221	47	2	-	4	4	22	8	54	11	-	15		21	12	35
MA	2,390	440	31	26	47	28	275	106	422	152	-	160	8	170	246	278
NH	357	51	7	-	2	8	39	11	59	39	-	57	-	22	15	37
RI	1,509	104	160	-	7	13	1,004	19	78	18	-	17	-	19	28	41
PR	1,310	214	38	-	14	21	249	8	497	15	-	56	1	59	111	135
2ND	33,967	3,825	179	141	178	483	12,707	582	5,293	1,583	-	2,101	19	1,255	2,010	3,552
CT	1,979	285	26	23	5	38	144	57	641	55	-	176	-	61	108	192
NY,N	1,460	128	20	28	8	40	92	27	383	228		483	-	57	93	85
NY,E	6,086	608	59	25	113	168	706	121	1,702	444	-	223	5	242	762	907
NY,S	21,821	2,628	58	66	55	170	11,614	346	2,017	498	-	654	12	780	878	2,485
NY,W	2,166	133	15	1	1	40	120	27	456	353	-	539	1	77	158	244
VT	185	42	1	-	-	6	30	4	43	7	-	26	-	9	10	14
3RD	66,906	2,337	432	89	88	666	53,164	368	3,386	806	62	1,461	17	992	943	2,212
DE	1,153	110	2	-	8	24	20	10	139	64	5	162	1	325	31	248
NJ	5,571	968	200	12	44	191	898	148	1,066	98	1	527	3	193	434	584
PA,E	55,894	713	27	65	9	199	51,858	130	1,062	288	23	231	4	163	289	858
PA,M	1,860	271	93	8		94	169	29	459	165	10	280	1	27	65	168
PA,W	1,661	215	26	4	8	20	88	25	503	186	13	231	1	58	125	147
VI	967	116	114	-	19	38	217	18	137	27	-	30	7	4	15	209
4TH	10,487	1,589	145	12	58	284	2,158	224	1,576	760	38	1,348	45	418	617	1,183
MD	2,255	338	33	3	8	84	164	53	366	64	2	208	31	71	161	627
NC,E	870	116	16	-	15	13	97	13	159	62	14	145	1	94	53	72
NC,M	550	98	12		1	2	62	8	129	35	7	63	1	53	24	57
NC,W	680	145	5	-	-	11	201	14	113	14	2	23	-	55	42	55
SC	2,873	380	17	-	20	84	797	41	411	314	1	507	5	38	160	100
VA,E	1,205	232	9	1	9	29	152	35	200	117	2	161	3	85	86	174
VA,W	374	50	22	1		12	47	13	77	32	2	54	-	12	24	28
WV,N	415	86	14	-	-	28	45	6	36	60	-	79	3	9	24	23
WV,S	1,175	154	17	7	5	21	563	31	85	82	-	107	1	3	43	56

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Table C-3A. (September 30, 2008—Continued)

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Prison Civil Rights	Prisoner Petitions: Prison Condition	Prisoner Petitions: Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
5TH	34,761	4,530	346	599	323	249	697	320	3	103	6	12	204	25	995	536
LA E	15,394	578	101	200	126	27	20	3	-	1	1		2	1	50	46
LA M	854	71	2	3	8	5	13	-	-	-	-	-	-	-	27	15
LA W	2,149	424	25	27	49	15	45	30	-	10	4	-	3	1	161	43
MS N	1,077	138	4	2	6	6	31	-		-	-	-	13	-	69	8
MS S	3,039	301	16	5	39	22	50	63	-	11	1	-	25	2	35	32
TX N	3,037	615	7	6	17	49	112	66	1	20		3	10	4	169	158
TX E	2,592	527	2	2	7	14	116	102	2	49	1	2	21	1	169	30
TX S	4,213	1,151	153	252	58	64	267	30		12	1	3	54	11	48	112
TX W	2,406	723	36	12	42	47	243	20	-	-	-	4	76	5	159	85
6TH	21,348	3,712	192	192	158	197	531	49	6	39	38	0	220	32	1,651	328
KY E	1,471	613	3	83	51	11	45	19	1	16	10	1	16	1	310	26
KY W	1,297	236	7	25	10	11	22	1	1	11	4	2	30	-	70	36
MI E	5,795	706	122	8	32	40	73	11	-	2	-	4	72	5	226	138
MI W	1,448	193	6	7	5	10	32	3	-	1		1	6	2	98	22
OH N	4,605	442	15	5	12	34	57	-	-	4	-	-	17	5	259	32
OH S	2,741	583	29	10	17	33	63	5	4	2		1	29	8	309	73
TN E	1,410	344	5	13	5	7	129	-	-	1	-	-	2	6	152	23
TN M	1,064	307	-	39	9	18	29	-					15	3	141	19
TN W	1,413	289	4	2	17	31	81	10	-	2	4		29	2	69	18
7TH	14,653	1,769	100	78	106	162	262	58	-	18	14	0	93	38	938	304
IL N	7,386	797	51	3	56	98	93	6	-	8	8	0	25	20	135	144
IL C	1,047	170	5	5	2	10	26	2	-	-	-		10	8	65	14
IL S	998	186	6	8	21	10	44	35	-	6	4	-	16	2	17	16
IN N	1,475	189	12	13	5	13	24	-	-	-	-	-	13	3	97	9
IN S	2,346	324	10	40	15	22	50	3	-	1	-	-	11	3	133	30
WI E	1,091	137	7	3	6	8	21	2	-	-	1	-	11	2	48	24
WI W	398	62	9	4	3	1	4	2	-	3	-	-	8	-	10	12
8TH	18,755	2,491	88	77	85	114	390	98	3	13	20	2	124	13	1,223	221
AR E	7,681	319	7	8	11	10	13	32	-	-	17	-	2	-	204	15
AR W	614	307	5	4	4	3	9	-	1	-	-	-	6	-	256	20
IA N	468	223	8	13	-	3	103	1		1	-	-	13	-	70	4
IA S	789	221	4	18	9	7	41	2		-	-	-	16	2	102	2
MN	5,099	294	22	10	13	19	18	24		8	-	-	14	4	49	25
MO E	2,659	431	14	4	18	25	117	1	1	2	-	2	29	2	201	30
MO W	1,476	446	17	-	12	27	31	33	1	1	2	-	17	4	267	36
NE	611	138	3	9	9	5	22	3		1		-	10	-	34	27
ND	184	41	6	10	3	3	6	-					4	1	2	1
SD	394	111	2	1	16	13	23	2	-	-	-	-	5	-	36	13

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Table C-3A. (September 30, 2008—Continued)

Circuit and District	Private Cases														
										Prisoner Petitions					
	Total Private Civil Cases	Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
9TH	**30,231**	**6,304**	**319**	**59**	**732**	**611**	**11,635**	**[illegible]**	**2,803**	**2,096**	**186**	**1,981**	**23**	**1,036**	**876**	**1,214**
LA,E	14,816	3,113	83	11	425	188	5,801	153	304	186	-	186	-	27	79	347
LA,M	780	147	9	1	19	67	131	17	152	37	1	114	2	14	30	48
LA,W	1,725	354	42	8	144	106	299	41	249	99	1	231	1	17	83	48
MS,N	941	148	15	1	3	125	116	84	236	72	12	86		6	24	18
MS,S	2,738	1,015	38	1	13	121	639	28	268	152	14	321	5	12	55	60
TX,N	2,418	394	35	1	1	46	96	41	436	522	24	345	6	164	142	77
TX,E	2,065	273	14	20	14	92	146	25	197	324	18	242	3	515	78	103
TX,S	3,086	636	50	12	113	51	299	57	468	332	24	270	2	120	253	309
TX,W	1,683	242	24	1		41	121	30	369	271	12	175	4	121	134	146
8TH	**17,836**	**2,218**	**287**	**72**	**84**	**377**	**3,821**	**376**	**3,361**	**2,253**	**84**	**1,340**	**17**	**573**	**1,267**	**1,393**
KY,E	858	179	14	1	2	51	177	42	163	98	5	76	2	48	45	71
KY,W	1,061	252	14	2	23	52	151	23	190	67	4	136	3	26	65	73
MI,E	4,590	616	64	23	37	61	268	128	844	1,128	-	285	3	189	399	552
MI,W	1,255	114	9	4	2	11	33	16	148	368	-	362		33	56	67
OH,N	4,167	361	36	17	3	46	2,432	48	385	242	17	76	7	110	203	176
OH,S	2,156	311	27	12	7	20	98	47	651	241	47	94	-	64	237	229
TN,E	1,056	154	19	6	1	66	170	21	263	41	6	101	-	33	71	54
TN,M	1,357	103	44	1	4	21	484	29	320	90	5	75		52	93	131
TN,W	1,124	199	10	4	5	49	107	25	357	74	10	156	2	35	70	70
7TH	**12,884**	**1,578**	**178**	**58**	**31**	**213**	**823**	**518**	**3,316**	**718**	**8**	**1,572**	**8**	**605**	**1,494**	**1,754**
IL,N	6,697	847	72	18	16	72	383	406	1,736	179	2	461	3	352	825	1,225
IL,C	877	78	13	7	4	14	35	9	249	44	-	186	2	29	4	35
IL,S	812	86	6	19	8	23	84	13	122	38	-	263	2	21	58	68
IN,N	1,266	140	15	9	2	54	31	29	418	118	3	120		33	133	53
IN,S	2,022	292	65	7	1	48	175	35	541	214	3	221	-	72	198	242
WI,E	694	121	4	8	-	1	26	21	204	106	-	156	-	65	21	131
WI,W	296	34	3	-	-	1	9	6	58	19		66	1	42	30	20
6TH	**17,264**	**1,223**	**81**	**40**	**83**	**211**	**10,615**	**474**	**1,508**	**643**	**19**	**884**	**9**	**335**	**797**	**472**
KY,E	2,662	122	10	15	5	39	1,676	27	238	92	10	230	3	10	19	38
KY,W	527	9	5	3		20	56	19	75	7	2	157	-	9	18	31
MI,N	245	47	4	1	-	3	26	6	78	16		47	-	5	41	14
MI,S	548	7	2	4	-	15	58	15	141	12	-	84	-	23	57	26
OH,N	4,045	280	21	9	2	21	3,397	117	327	72	-	67	-	163	278	147
OH,S	1,628	247	6	1	6	38	271	222	230	243	4	66	1	50	151	78
TN,E	1,030	207	15	2	-	45	96	48	212	52	-	136	2	19	89	54
TN,M	473	83	7	6	-	15	42	7	133	31	-	51	2	28	45	37
TN,W	143	29	7	5	-	6	25	6	19	4	-	14	-	11	8	9
OD	283	66	2	-	-	11	19	7	54	34	-	27		6	10	16

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Table C-3A. (September 30, 2008—Continued)

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Habeas Corpus General	Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
9TH	39,860	6,918	343	154	463	457	695	308	14	64	3	47	530	40	2,389	1,421
AK	393	144	7	6	43	12	15	-	-	-	-	-	18	1	17	25
AZ	2,865	633	14	31	67	56	134	60	-	2	1	4	13	5	120	130
CA N	8,183	719	45	5	55	81	50	8	1	3	2	1	69	7	110	272
CA E	6,588	867	16	9	32	43	125	64	1	32		3	89	2	346	105
CA C	10,872	2,628	189	9	74	95	99	117	12	13	-	6	144	13	668	389
CA S	2,040	432	13	36	81	43	75	6	-	2	-	18	39	2	46	94
HI	537	105	5	8	16	13	4	1					7	2	6	43
ID	382	116	5	3	11	2	12	-		-	-	-	5	2	44	32
MT	553	157	11	17	20	4	33	3	-	-	-	-	5	-	27	36
NV	2,910	349	12	8	25	46	44	17		7	-	8	61	1	19	105
OR	2,393	703	12	7	20	31	37	1	-	2	-	6	23	1	484	73
WA E	552	205	4	8	12	12	28	-	-	-	-	-	15	-	96	30
WA W	2,059	439	10	7	21	29	72	29	-	2	-	1	31	4	186	88
GUAM	32	10	-	-	6	-	2	-	-	-	-	-	1	-	-	1
NMI	63	19	-	-	-	6	5	2	-	1	-	-	1	-	-	2
10TH	9,372	2,161	52	74	117	165	312	111	-	22	77	9	131	17	745	329
CO	2,225	515	4	9	24	43	76	50	-	6	54	-	23	4	130	112
KS	1,472	337	7	12	8	15	32	45	-	13	13	8	24	3	135	22
NM	1,731	366	10	7	49	53	73	1	-	-	-	-	46	5	67	55
OK N	806	194	8	11	6	4	27	3	-	-	-	-	5	1	102	17
OK E	389	162	1	7	6	4	7	1		1	-	-	4	-	133	5
OK W	1,125	238	9	12	9	24	34	-	-	-	-	1	3	3	100	37
UT	1,299	235	9	12	14	20	24	1	-	2	-		24	1	67	61
WY	331	107	4	4	1	2	69	-	-	-	-	-	2	-	5	20
11TH	28,129	4,238	189	381	163	191	721	181	7	34	26	10	208	24	1,596	467
AL N	3,539	408	10	7	13	21	55	13		2	-	-	28	1	237	21
AL M	996	215	9	1	7	13	44	2	-	-	-	1	10	1	126	5
AL S	638	141	7	4	3	4	42	2	-	-	-	-	5	-	53	11
FL N	1,441	403	23	1	15	25	85	17	-	-	6	-	70	1	144	36
FL M	11,982	1,303	38	129	62	36	153	101	3	23	17	3	36	6	551	145
FL S	4,756	361	52	226	33	33	197	35	3	3	3	2	36	3	190	146
GA N	3,027	431	24	11	15	39	87	7	1	6	-	4	45	9	119	63
GA M	1,050	230	9	1	3	9	38	2	-	-	-	-	27	1	106	29
GA S	700	146	3	1	5	11	40	2	-	-	-	-	11	2	38	12

Table C-3A. (September 30, 2008—Continued)

Circuit and District	Private Cases									Prisoner Petitions						
	Total Private Civil Cases	Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
9TH	32,932	3,660	469	62	191	220	3,236	818	4,860	6,342	254	4,556	117	2,344	2,135	3,698
AK	239	75	9	-	13	2	20	3	36	34	-	6	-	4	16	22
AZ	2,252	320	94	1	1	46	105	38	480	313	30	351	-	126	98	239
CA N	7,484	550	47	2	25	10	2,030	256	786	824	37	539	8	487	583	1,202
CA E	5,721	278	37	5	5	25	114	52	747	1,835	40	2,038	9	65	159	243
CA C	8,051	585	114	4	6	26	330	248	1,031	2,117	87	483	1	1,104	686	821
CA S	1,835	213	35	-	16	3	74	44	242	200	9	172	3	187	122	273
HI	432	94	5	-	29	5	47	12	142	4	-	23	-	14	20	33
ID	456	84	10	-	-	7	25	6	67	41	10	132	-	16	26	44
MT	396	89	10	3	-	17	54	14	55	32	-	53	-	4	20	35
NV	2,564	500	47	2	5	42	175	58	463	353	25	329	14	133	171	242
OR	1,690	211	14	6	6	21	92	45	393	384	5	123	81	74	103	126
WA E	347	51	4	12	-	5	30	7	98	20	1	40	1	10	23	45
WA W	1,629	285	26	15	76	10	116	35	297	82	2	187	2	101	123	255
GUAM	22	6	-	-	1	-	3	1	2	2	-	-	-	2	1	4
NMI	44	9	-	-	-	1	6	-	21	-	-	-	-	1	4	2
10TH	7,211	1,286	102	40	4	229	596	134	1,953	681	44	786	9	381	333	742
CO	1,710	345	6	11	2	38	114	28	365	161	1	223	-	107	74	221
KS	1,135	190	6	11	-	44	100	35	241	59		156	2	37	78	165
NM	1,255	188	26	5	-	66	127	17	587	72	-	100	-	30	51	86
OK N	606	120	5	3		12	31	10	180	101	15	19	-	15	47	48
OK E	220	17	6	2	1	9	13	3	63	41	2	48	1	1	6	7
OK W	847	157	10	3	-	19	72	9	270	68	23	105	5	25	27	94
UT	1,054	229	20	3	1	20	98	20	158	51	3	121	1	144	43	107
WY	224	35	11	2	-	21	43	2	39	24	-	23	-	2	7	14
11TH	23,891	2,426	288	9	215	301	7,348	333	3,095	2,008	131	1,734	25	602	3,923	1,455
AL N	3,131	267	22	1	-	48	102	26	478	107	25	180	-	28	1,763	146
AL M	761	86	4	-	-	34	71	16	175	106	9	205	1	5	39	30
AL S	497	127	6	-	13	19	29	24	102	44	6	83	-	3	19	21
FL N	1,038	117	7	-	4	21	58	6	231	255	14	244	-	17	35	29
FL M	10,679	603	54	2	35	62	6,189	81	725	942	55	289	6	179	1,044	413
FL S	3,795	692	126	3	151	19	361	66	472	224	12	222	9	179	788	471
GA N	2,596	403	55	-	2	55	447	93	615	150	5	162	8	164	169	268
GA M	820	66	10	-	1	34	59	12	206	92	3	183	-	19	51	44
GA S	554	65	4	3	9	18	32	9	91	88	2	186	1	10	15	23

*FELA = FEDERAL EMPLOYERS LIABILITY ACT

RA13

Table C-3.
U.S. District Courts—Civil Cases Commenced, by Nature of Suit and District, During the 12-Month Period Ending September 30, 2007

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Prisoner Petitions										Forfeitures and Penalties	Labor Suits	Social Security	All Other
			Contract	Real Property	Tort Actions	Civil Rights	Motions to Vacate Sentence	Habeas Corpus General	Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other				
TOTAL	257,507	45,464	3,412	1,742	2,046	2,598	5,896	3,285	14	1,001	245	855	2,272	441	12,974	8,683
DC	2,415	1,102	31	-	40	283	30	149		178	4	19	44	7	21	496
1ST	5,890	1,420	33	103	84	68	181	138	-	34	3	23	84	17	289	383
ME	449	117	-	3	3	7	23	1	-	-	1	-	8	-	56	15
MA	3,131	734	23	3	42	26	54	134		28	1	21	23	8	76	305
NH	450	112	1	1	8	7	17				-	-	18	2	30	28
RI	583	107	-	-	4	3	13	2	-	-		-	8	6	54	17
PR	1,267	340	3	96	27	25	74	1	-	6	1	2	27	1	53	18
2ND	27,165	3,249	182	84	173	186	329	225	1	32	13	108	210	69	945	692
CT	2,050	456	23	2	16	33	26	28	-	4		32	27	9	50	100
NY N	1,484	312	5	-	19	18	23	-	-			-	47	2	184	16
NY E	5,751	1,078	111	11	78	60	67	102	-	15	1	45	25	34	232	297
NY S	16,125	1,001	26	12	47	53	182	40	1	9	11	31	49	22	270	248
NY W	1,492	424	13	48	10	11	23	52	-	3	1	-	58	1	184	20
VT	263	73	1	11	3	5	8	3	-	1	-		4	1	25	11
3RD	32,521	3,360	123	240	153	192	253	580	2	151	13	150	126	23	839	535
DE	870	73	4	1	5	4	9	-	-	-	-	2	9		28	11
NJ	6,557	1,003	42	7	61	59	60	201		13	-	106	38	9	205	202
PA E	19,739	885	37	21	47	73	113	69		3	-	35	8	6	277	207
PA M	2,415	706	5	86	12	19	42	275	2	123	3	5	9	-	105	19
PA W	2,479	592	30	109	14	24	26	23	-	12	10	-	57	7	224	54
VI	363	101	5	16	14	12	1	2	-	-	-	2	5	1	-	42
4TH	17,331	4,111	136	186	159	190	883	243	-	107	25	147	278	18	1,264	474
MD	3,601	919	43	6	50	83	118	5	-	7	-	62	103	5	227	210
NC E	1,367	553	31	3	12	18	92	64	-	16	9	73	47	2	172	24
NC M	1,003	278	11	-	4	12	111	-	-	-	1	-	36	3	83	17
NC W	1,043	254	18	5	5	6	116	8	-	2		1	17	2	64	14
SC	4,403	607	10	189	24	13	130	24	-	9	5	-	16	1	175	27
VA E	3,239	555	7	2	27	46	149	29	-	15	6	7	31	3	81	132
VA W	1,146	449	3	2	13	5	87	33	-	26	-	2	11	-	250	17
WV N	633	295	2	1	11	2	46	66	-	26	4	2	7	1	61	6
WV S	896	201	8	1	13	6	44	16	-	6			9	1	151	7

Table C-3. (September 30, 2007—Continued)

Circuit and District	Total Private Civil Cases	Private Cases														
		Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions				Copyright, Patent, Trademark	Labor Suits	All Other
										Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other			
TOTAL	212,043	30,527	3,438	534	1,695	3,780	49,527	3,864	29,158	18,907	232	22,779	731	10,781	18,233	17,984
DC	1,113	164	21	-	-	22	137	14	301	29	-	64	2	50	116	193
1ST	4,470	783	91	21	52	69	622	156	837	221	1	277	17	350	392	581
ME	532	52	6	1	3	6	31	6	74	21	-	25	-	28	25	46
MA	2,387	426	32	19	35	28	289	116	349	129	1	140	11	220	237	355
NH	338	52	4	-	1	4	34	4	67	38	-	54	2	30	13	37
RI	486	89	30	-	4	7	90	23	76	24	-	15	-	39	32	57
PR	927	154	19	1	9	24	178	7	271	11	-	43	4	35	85	86
2ND	23,916	3,343	107	98	122	397	8,319	323	3,311	957	2	1,545	28	1,264	1,781	2,319
CT	1,700	266	16	14	8	37	131	47	457	43	-	129	3	115	113	317
NY,N	1,136	117	6	11	5	20	113	16	237	171	-	257	-	50	54	79
NY,E	4,873	502	44	21	34	173	762	69	949	271	-	206	8	248	655	731
NY,S	15,124	2,339	30	51	75	129	7,178	171	1,401	321	2	721	17	768	880	1,041
NY,W	1,068	76	8	1	-	28	103	14	233	134	-	204	-	67	67	132
VT	215	41	1	-	-	9	32	6	54	17	-	28	-	16	12	19
3RD	28,161	2,402	303	109	59	542	15,273	339	3,031	1,130	17	1,788	42	917	1,273	1,870
DE	797	64	2	1	2	15	14	6	99	56	3	153	-	178	32	168
NJ	5,654	971	170	11	32	193	911	132	885	153	-	544	14	420	621	817
PA,E	18,853	852	46	83	10	217	14,084	146	1,217	478	9	458	17	229	313	604
PA,M	1,711	223	96	2	-	73	110	23	342	209	3	361	3	38	85	141
PA,W	1,884	284	16	12	13	27	102	28	471	230	2	260	5	60	207	188
VI	262	29	33	-	2	17	52	4	37	4	-	6	3	2	5	88
4TH	13,220	1,803	188	8	48	409	1,863	244	1,636	1,249	8	2,947	191	642	973	1,013
MD	2,982	384	60	2	10	121	259	75	408	97	1	447	131	98	230	345
NC,E	814	117	10	-	11	10	69	10	132	100	2	156	3	89	51	64
NC,M	726	88	9	-	-	7	84	10	115	109	-	118	4	102	19	49
NC,W	789	133	10	-	-	15	238	9	116	38	1	55	2	73	49	56
SC	3,796	410	27	-	12	114	641	30	388	340	-	1,311	20	98	307	98
VA,E	2,684	353	18	3	10	58	366	67	311	321	1	503	24	149	210	290
VA,W	897	83	32	-	-	19	50	16	74	112	1	220	1	17	37	35
WV,N	398	92	11	1	1	24	57	12	26	60	-	53	5	4	26	26
WV,S	629	119	11	2	4	41	99	15	66	72	-	83	1	12	44	60

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Table C-3. (September 30, 2007—Continued)

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Prison Civil Rights	Prisoner Petitions: Prison Condition	Prisoner Petitions: Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
5TH	34,662	5,578	1,176	250	351	252	869	598	1	173	8	26	230	40	912	670
LA E	10,484	669	171	193	145	23	21	4	-	1	1	3	2	2	56	42
LA M	999	132	6	-	9	3	28	1	-	-	-	-	2	1	40	42
LA W	2,458	441	20	13	41	7	46	109	-	8	4	1	5	6	159	22
MS N	947	99	11	7	2	10	13	-	-	-	-	-	8	-	45	3
MS S	2,702	247	27	7	27	15	33	74	-	4	1	1	10	5	29	14
TX N	4,213	780	23	7	18	45	129	132	-	13	1	5	20	8	165	214
TX E	3,222	582	8	1	13	12	161	128	-	117	1	5	14	1	128	50
TX S	6,434	1,808	867	6	39	69	288	81	1	22	-	8	34	15	156	172
TX W	3,133	616	45	8	57	68	230	67	-	8	-	3	55	2	134	111
6TH	21,322	4,611	735	284	155	254	380	170	4	86	4	37	163	68	1,686	574
KY E	1,804	835	3	117	26	8	31	102	-	40	1	1	8	1	459	38
KY W	1,309	327	8	103	15	11	19	4	-	16	-	6	9	-	115	21
MI E	5,530	1,353	629	14	31	100	62	28	-	6	1	11	51	17	202	191
MI W	1,593	208	11	1	6	21	38	3	-	-	1	-	10	7	84	26
OH N	4,543	586	33	4	36	22	71	14	-	14	-	5	6	17	268	96
OH S	2,836	602	31	3	12	40	47	6	3	3	-	12	32	13	289	111
TN E	1,131	244	6	6	4	8	58	-	-	1	1	-	2	10	124	24
TN M	1,548	236	7	34	11	16	24	1	-	3	-	-	15	4	74	47
TN W	1,128	220	7	2	14	28	40	12	1	3	-	2	20	-	71	20
7TH	15,584	2,225	104	137	112	143	322	55	-	23	17	17	140	41	547	551
IL N	7,620	915	24	9	52	89	105	13	-	12	8	15	23	16	118	433
IL C	1,009	182	13	39	2	10	35	1	-	-	4	1	6	8	53	10
IL S	1,025	173	10	20	20	9	22	26	-	6	4	-	13	1	23	19
IN N	1,516	242	13	30	7	7	37	-	-	-	-	-	22	6	106	14
IN S	2,411	316	30	23	17	18	45	2	-	1	3	1	23	5	129	21
WI E	1,231	224	11	4	11	5	41	3	-	-	-	-	40	2	79	28
WI W	782	171	3	12	3	5	37	10	-	14	-	-	19	3	39	26
8TH	15,589	2,869	121	108	90	155	490	128	3	22	30	16	154	26	1,235	310
AR E	2,063	323	11	10	11	23	24	32	-	6	27	-	7	1	159	12
AR W	803	268	7	8	9	7	11	-	1	-	1	-	9	1	207	7
IA N	549	248	6	16	-	5	57	4	-	1	-	-	18	2	131	8
IA S	729	240	7	13	4	7	55	3	-	-	-	5	12	3	119	7
MN	5,412	332	14	11	11	12	48	28	-	3	-	-	11	7	75	92
MO E	2,414	453	14	4	15	41	85	9	1	10	-	4	43	3	173	51
MO W	2,037	623	22	1	12	42	104	41	1	1	2	4	27	4	295	67
NE	891	230	12	24	10	5	63	3	-	-	-	2	21	3	41	46
ND	293	55	2	10	3	3	19	2	-	1	-	1	3	2	9	9
SD	418	117	6	6	15	10	32	7	-	-	-	-	3	-	26	12

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Table C-3. (September 30, 2007—Continued)

Circuit and District	Private Cases																
	Total Private Civil Cases	Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions				Copyright, Patent, Trademark	Labor Suits	All Other
										Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other			
5TH	20,086	9,112	429	75	761	763	4,688	678	2,603	3,280	67	2,849	74	1,352	983	1,453
LA,E	9,816	5,490	62	9	366	160	2,630	170	231	227	1	162	3	45	94	176
LA,M	867	121	9	1	8	55	122	18	180	88	-	171	1	10	24	58
LA,W	2,027	470	24	-	126	119	219	234	189	187	-	309	-	45	77	48
MS,N	848	142	6	2	4	48	144	22	187	95	6	160	-	11	25	17
MS,S	2,455	664	81	1	13	120	360	44	228	161	3	283	7	38	64	68
TX,N	3,433	601	82	1	1	39	186	68	514	822	15	523	25	232	165	209
TX,E	2,640	393	16	35	20	130	212	23	208	555	4	449	19	408	74	94
TX,S	4,626	743	142	25	213	78	561	69	487	718	23	489	11	295	294	472
TX,W	2,375	288	34	1	-	35	154	30	369	456	9	393	8	268	188	232
6TH	16,711	2,037	1,514	64	64	340	2,080	344	3,001	1,858	31	1,487	35	665	1,428	1,793
KY,E	768	180	26	4	5	64	110	26	132	51	1	60	1	24	53	50
KY,W	982	180	18	1	20	48	130	14	154	75	2	118	8	34	96	84
MI,E	4,227	557	75	17	19	60	167	85	714	782	-	300	4	101	401	865
MI,W	1,385	130	6	2	3	14	37	65	176	271	1	380	1	44	78	174
OH,N	3,957	374	972	17	3	32	1,013	45	502	268	8	89	15	119	279	211
OH,S	2,234	252	385	11	5	24	109	55	526	186	7	91	3	112	274	174
TN,E	937	137	12	8	-	49	128	12	232	51	3	108	-	34	80	85
TN,M	1,312	123	6	2	3	25	289	22	294	94	3	189	2	74	111	92
TN,W	908	114	7	2	6	33	99	20	271	70	5	142	1	33	56	48
7TH	13,168	1,610	87	61	33	207	869	358	2,879	1,088	3	1,488	19	717	2,186	1,704
IL,N	6,705	878	45	14	14	75	295	263	1,525	165	-	382	3	427	1,488	1,130
IL,C	827	57	9	5	2	5	51	7	164	95	-	227	2	29	96	68
IL,S	852	80	9	19	13	38	212	22	117	33	-	157	-	13	69	70
IN,N	1,274	125	6	8	1	42	87	14	350	187	1	188	5	47	141	84
IN,S	2,083	247	12	7	3	41	155	27	535	363	2	235	7	71	217	170
WI,E	1,007	133	1	9	-	5	45	19	194	149	-	133	2	57	135	134
WI,W	611	80	4	1	-	1	24	15	93	56	-	166	-	73	40	38
8TH	12,688	1,279	67	25	9	201	4,730	435	1,604	845	4	1,504	19	377	897	674
AR,E	1,740	118	9	9	2	39	749	29	229	116	4	333	-	15	45	38
AR,W	535	81	9	2	-	23	68	17	98	19	-	141	-	13	43	21
IA,N	301	30	2	2	-	2	35	5	71	40	-	54	-	18	19	23
IA,S	539	65	4	2	-	10	45	12	126	54	-	107	2	33	32	47
MN	5,080	283	13	1	-	21	3,316	141	312	119	-	73	-	135	388	209
MO,E	1,861	219	14	2	4	36	315	199	333	193	-	288	-	86	190	84
MO,W	1,414	211	9	-	2	38	111	21	261	184	-	311	10	38	124	92
NE	661	172	3	7	-	18	30	5	123	47	-	113	2	25	24	72
ND	138	34	4	-	-	3	22	2	19	10		10		11	10	14
SD	301	53	-	-	-	11	39	4	36	63	-	54	3	2	12	24

RA17

Table C-3. (September 30, 2007—Continued)

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions						Forfeitures and Penalties	Labor Suits	Social Security	All Other
							Motions to Vacate Sentence	Habeas Corpus General	Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other				
9TH	40,637	9,328	424	81	458	507	802	536	1	82	2	244	424	79	2,732	2,752
AK	347	137	6	2	28	14	14		-	-	1	-	8	2	33	29
AZ	3,477	816	32	4	43	29	339	110	-	2	1	17	32	3	136	70
CA N	7,074	1,209	51	8	63	101	32	29	-	5	-	7	31	17	122	743
CA E	4,595	770	18	9	39	24	40	132		20	-	15	51	3	304	115
CA C	11,904	3,064	239	5	111	95	127	164	1	23	-	45	150	22	1,006	1,077
CA S	2,829	643	27	3	60	42	87	13		12	-	74	46	5	76	198
HI	563	112	4	6	15	13	25	-	-	1		1	9	-	3	35
ID	542	102	2	3	4	9	16	1	-	-	-	-	4	3	32	28
MT	820	209	11	29	21	7	50	1	-	-	-	-	11	1	60	18
NV	2,463	402	10	2	17	108	49	34	-	14	-	46	23	2	13	86
OR	2,524	757	14	4	13	21	38	8		2	-	38	18	4	499	98
WA E	640	268	5	3	10	12	38	6			-	-	10	-	164	20
WA W	2,674	908	15	3	33	30	39	137		2	-	-	27	8	264	230
GUAM	38	17	-	-	2	1	6	1	-	-	-	-	4		1	2
NMI	47	12	-	-	-	3	2	2	-	1	-	1	-	-		3
10TH	9,994	2,457	81	175	118	156	367	114	1	39	82	9	140	23	757	395
CO	2,798	819	7	24	31	41	30	64	1	13	78	-	38	10	130	152
KS	1,551	383	15	34	5	22	53	44	-	18	3	2	19	2	139	25
NM	1,449	355	12	3	42	33	125	1	-	1	1	1	38	5	61	32
OK N	745	196	7	35	3	5	27	3	-	-	-	-	11	2	67	10
OK E	487	165	4	12	4	3	15	1	-	1	-	-	5		105	15
OK W	1,536	391	20	69	25	20	24	1		-	-	6	1	3	161	68
UT	1,141	278	11	4	7	29	89	-		4	-	-	18	1	67	66
WY	289	72	5	1	1	3	24	-	-	1			10	-	7	20
11TH	34,407	4,836	254	94	152	212	860	268	1	64	44	59	272	38	1,767	851
AL N	4,843	574	23	3	18	22	38	23		3	-	2	25	6	365	25
AL M	1,187	204	8	2	4	10	34	5	-	1	1	-	19	-	111	9
AL S	883	158	9	-	4	7	34	4	-	-	-	1	6	-	60	5
FL N	1,635	363	19	3	10	24	76	38		-	14	3	22	2	139	12
FL M	12,660	1,411	37	69	50	38	264	79	-	43	22	17	49	10	547	185
FL S	7,072	1,193	80	10	33	49	234	61	1	6	2	14	60	12	175	446
GA N	3,900	586	53	4	17	52	112	51		10	5	21	60	7	160	133
GA M	1,210	217	5	1	5	2	40	4		-	-	-	16	-	121	23
GA S	920	130	10	2	11	8	28	2		1	-	1	15	1	40	11

RA18

Table C-3. (September 30, 2007—Continued)

Circuit and District	Total Private Civil Cases	Private Cases														
		Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Conditions and Civil Rights	Prisoner Petitions: Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
9TH	31,309	3,712	232	35	204	224	2,485	533	4,768	5,183	38	4,731	195	2,968	2,294	3,708
AK	210	52	3		6	4	20	8	41	19	-	14	-	1	18	20
AZ	2,659	381	20	1	-	27	124	39	481	387	3	779	14	161	86	216
CA N	5,865	478	36	1	22	14	1,059	59	631	784	5	726	12	529	517	884
CA E	3,825	231	29	5	1	26	188	31	585	1,146	2	1,154	12	76	127	212
CA C	8,840	1,086	47	7	15	33	371	213	1,146	1,560	7	701	7	1,564	305	1,078
CA S	4,189	242	14	-	16	5	108	42	467	328	-	324	14	180	92	354
HI	561	101	8		20	3	47	11	154	27	-	47	-	22	32	79
ID	440	71	10	-	-	13	31	8	70	50	-	111	2	16	17	41
MT	411	89	15	2	-	20	46	9	45	36	-	66	-	3	25	35
NV	2,061	403	9	1	4	25	141	38	381	248	19	264	20	186	101	223
OR	1,767	220	18	1	12	31	68	41	415	316	2	170	113	79	111	172
WA E	372	45	10	6	-	9	21	4	78	46	-	80	1	12	21	39
WA W	2,066	323	15	11	107	11	256	80	298	148	-	253	-	140	233	240
GUAM	21	7			-	1	1	-	5	-	-	2	-	-	2	3
NMI	35	5			1	2	4	-	13	-	-	-	-	-	0	1
10TH	7,937	1,280	86	33	5	216	783	101	1,743	748	10	984	15	383	348	814
CO	2,177	356	34	11	3	41	150	21	370	216	-	380	-	133	92	373
KS	1,168	182	5	9	-	42	100	23	280	113	-	161	5	40	80	110
NM	1,094	153	17	6	-	43	126	12	418	73	-	86	-	26	29	95
OK N	549	123	11	2	-	11	60	6	153	62	2	30	3	25	43	28
OK E	322	36	5	5	1	18	45	2	81	46		57	-	3	8	15
OK W	1,145	184	10	-		22	127	16	279	187	7	152	5	37	31	86
UT	865	187	3	-	1	13	143	15	126	31	1	69	2	119	36	96
WY	217	39	11	-	-	28	38	4	36	28	-	19	-	3	9	2
11TH	28,471	3,022	243	2	259	374	7,712	339	3,344	2,332	53	3,155	94	1,075	5,570	1,898
AL N	4,269	273	21	1	2	69	147	32	501	177	7	283	3	32	2,580	101
AL M	903	100	2	-		38	56	14	245	80	3	315	10	17	41	56
AL S	821	195	15	-	14	24	55	44	97	170	1	107	1	20	26	52
FL N	1,272	138	8	-	5	13	46	8	280	242	5	337	10	56	59	58
FL M	11,249	682	24	-	28	63	6,401	64	754	682	27	640	29	306	1,165	404
FL S	5,879	1,040	36	-	202	38	641	69	585	391	5	332	19	355	1,476	720
GA N	3,215	473	72	-	1	81	273	79	603	322	3	518	16	244	173	397
GA M	953	85	10	-	1	28	55	9	159	161	1	147	2	31	48	58
GA S	759	80	58	1	5	20	38	20	110	107	1	276	4	14	22	34

* FELA = FEDERAL EMPLOYERS LIABILITY ACT

RA19

Table C-3A.
U.S. District Courts—Civil Cases Pending, by Nature of Suit and District, During the 12-Month Period Ending September 30, 2007

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Prisoner Petitions										Forfeitures and Penalties	Labor Suits	Social Security	All Other
			Contract	Real Property	Tort Actions	Civil Rights	Motions to Vacate Sentence	Habeas Corpus General	Death Penalty	Prison Civil Rights	Prison Condition	Mandamus and Other				
TOTAL	265,682	38,839	1,821	1,788	2,230	2,970	5,427	1,940	34	702	173	412	2,121	318	12,539	6,354
DC	2,762	1,480	72	1	47	394	74	132	-	125	2	11	52	11	29	530
1ST	6,452	1,256	37	70	98	110	223	55	-	35	3	9	101	14	233	281
ME	297	57	-	-	5	8	9	-	-	-	-	-	6	-	31	10
MA	3,162	592	19	2	45	37	59	53	-	28	3	9	25	7	78	220
NH	417	93	-	-	8	7	6	-	-	-			16	3	17	24
RI	834	114	4	-	8	4	15	-	-	1	-	-	7	4	61	14
PR	1,712	410	5	68	31	56	132	2	-	6	-	-	47	-	48	15
2ND	37,347	3,581	125	72	266	256	436	144	1	33	19	60	210	38	1,247	686
CT	2,426	234	14	1	24	45	23	21	-	5	-	9	24	3	43	72
NY,N	2,445	613	5	2	37	23	35	1	-	-			37	3	443	21
NY,E	8,164	1,097	69	21	111	97	137	44		12	1	24	43	10	254	275
NY,S	21,569	1,087	19	8	72	67	208	47	1	10	14	27	51	12	281	270
NY,W	2,480	450	13	32	19	19	29	31	-	4	-	-	45	1	208	42
VT	263	50	-	8	3	5	4			2	-	-	9	1	12	6
3RD	37,478	2,599	65	162	187	220	363	248	2	130	18	53	88	31	697	444
DE	1,315	111	2	2	8	6	20		-	-	-	2	12	2	37	20
NJ	5,872	728	22	6	73	74	68	66	-	19	-	30	23	10	179	154
PA,E	24,784	601	14	17	35	56	87	26		3		16	6	5	210	130
PA,M	2,032	457	6	31	15	24	44	112	2	96	5	-	12	-	98	15
PA,W	2,086	435	10	68	17	27	27	20	-	9	11	-	26	3	174	43
VI	1,279	267	11	36	34	33	17	24	-	4	-	5	7	5	1	82
4TH	13,066	3,461	86	111	155	200	765	175	-	68	23	69	244	13	1,240	323
MD	2,931	674	41	5	45	84	61	1	-	4	-	11	65	4	217	116
NC,E	1,247	527	27	7	15	26	90	40	-	10	10	55	54	1	160	32
NC,M	560	314	4	-	11	14	102	1		1	-	-	39	3	124	15
NC,W	787	206	7	2	4	12	76	-	-	-	-	-	28	1	56	20
SC	3,007	534	9	91	22	17	159	13	-	7	2	-	16	-	174	24
VA,E	1,838	289	1	1	26	32	52	17		11	7	1	15	2	58	76
VA,W	660	262	2	2	11	4	31	6		5	-	-	12	-	185	14
WV,N	730	302	1	2	10	6	80	78	-	22	4	2	7	1	72	6
WV,S	996	343	3	-	11	5	85	19	-	8		-	8	1	184	18

RA20

Table C-3A. (September 30, 2007—Continued)

Circuit and District	Private Cases															
	Total Private Civil Cases	Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Conditions and Civil Rights	Prisoner Petitions: Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
TOTAL	226,243	27,952	2,705	713	1,618	3,863	73,874	4,147	32,292	18,071	781	17,660	324	9,366	14,372	18,516
DC	1,282	172	20	1	-	27	169	27	348	18	-	58	1	56	108	277
1ST	5,186	868	93	37	90	82	987	147	1,103	213	1	282	14	334	427	537
ME	230	43	5	-	5	5	75	8	58	7	-	16	-	17	18	27
MA	2,610	505	33	36	64	35	310	105	451	140	1	123	10	218	253	326
NH	334	50	2	-	1	3	38	8	73	32	-	68	2	23	11	22
RI	720	102	35	-	6	6	342	15	76	20	-	11	-	27	24	50
PR	1,302	169	18	1	14	33	272	13	447	14	-	43	2	49	121	108
2ND	33,766	3,592	143	153	191	516	12,543	581	5,157	1,708	-	2,120	18	1,431	1,902	3,711
CT	2,142	309	23	22	10	49	137	53	758	60	-	183	-	85	115	338
NY N	1,832	135	16	21	11	37	128	28	393	316	-	543	-	48	85	70
NY E	7,087	608	57	27	51	194	6,950	109	1,551	444	-	164	7	324	680	862
NY S	20,482	2,359	37	80	109	178	10,165	366	1,972	548	-	656	10	804	831	2,277
NY W	2,030	117	8	2	-	49	117	20	449	324	-	518	1	99	176	150
VT	213	34	2	1	-	9	38	4	34	16	-	37	-	11	15	14
3RD	34,879	2,273	373	133	77	511	21,756	340	3,318	835	48	1,327	23	966	889	2,001
DE	1,204	108	2	1	8	19	14	10	163	74	4	181	-	283	35	312
NJ	5,244	940	159	17	40	184	892	124	1,070	100	2	425	4	437	414	521
PA E	24,193	651	32	92	11	176	20,492	131	980	291	18	212	6	146	248	597
PA M	1,575	215	54	8	-	71	112	31	414	183	11	277	2	29	76	92
PA W	1,651	231	16	15	7	24	83	28	537	158	13	232	5	55	110	137
VI	1,012	128	110	-	11	37	253	16	144	29	-	20	6	5	16	242
4TH	9,605	1,552	166	6	55	344	1,143	224	1,485	789	29	1,472	50	467	643	1,180
MD	2,257	301	45	2	8	110	198	64	361	60	2	233	20	66	152	626
NC E	720	121	10	-	19	6	68	7	155	66	13	119	-	37	44	55
NC M	566	93	6	-	-	6	42	10	112	59	6	83	-	69	17	57
NC W	593	151	7	-	-	14	52	10	117	21	3	17	-	70	44	76
SC	2,473	341	23	-	12	99	410	50	377	234	1	573	5	91	186	71
VA E	1,539	250	10	3	9	33	208	35	185	151	3	241	11	98	107	195
VA W	378	64	42	-	-	15	38	15	63	30	1	52	-	13	23	22
WV N	428	107	12	-	1	25	51	12	32	66	-	61	4	10	20	21
WV S	651	118	11	1	6	36	75	21	83	102	-	93	-	7	44	55

RA21

Table C-3A. (September 30, 2007—Continued)

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Prison Civil Rights	Prisoner Petitions: Prison Condition	Prisoner Petitions: Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
5TH	37,123	4,688	637	264	326	265	904	354	4	119	5	17	199	33	888	493
LA E	16,076	653	192	196	130	25	15	3	-	-	-	1	3	1	64	34
LA M	2,317	93	3	4	11	2	13	1	-	1			1	1	38	18
LA W	2,266	425	15	30	47	15	59	34		2	1	-	4	7	102	25
MS N	1,316	134	9	8	5	13	36	1	-	-	-		9	1	45	7
MS S	2,974	266	14	9	25	21	36	64	-	4	2	1	22	2	39	28
TX N	2,979	565	17	6	10	47	92	64	1	16	1	4	16	6	108	120
TX E	2,765	584	3	3	13	15	102	112	2	83	1	6	18	1	167	57
TX S	4,418	1,214	376	1	32	74	353	38	1	10	-	3	45	11	169	147
TX W	2,353	667	14	6	62	52	198	37	-	3		2	81	3	128	91
6TH	22,311	3,697	181	214	159	264	412	54	5	40	4	14	217	49	1,616	468
KY E	1,446	633	3	66	25	8	30	13	1	19	2	1	10	1	408	44
KY W	1,235	274	7	67	18	16	13	1	-	6	-	2	20	-	86	38
MI E	5,558	705	116	11	25	72	70	18	-	1	1	2	63	11	193	122
MI W	1,419	184	4	5	5	13	19	2		-	-	-	22	5	85	26
OH N	5,329	445	13	3	27	30	56	4	-	9	-	4	4	6	230	59
OH S	3,036	624	20	3	15	50	48	5	4	2		4	56	10	307	108
TN E	1,382	286	5	6	9	14	106	-			1		4	11	109	21
TN M	1,571	239	7	51	15	20	22	-	-			-	11	3	139	31
TN W	1,275	247	6	2	20	41	50	11	-	3		1	27	2	65	19
7TH	14,813	1,897	118	88	115	161	206	44		18	12	8	85	26	527	399
IL N	7,066	739	84	7	52	108	79	6		5	4	7	13	9	133	287
IL C	961	148	7	19	3	6	21	2	-	1	1	1	10	5	60	10
IL S	1,057	196	5	15	28	11	30	34	-	6	5		9	1	25	27
IN N	1,470	176	3	20	5	9	18	-	-	-			12	4	69	15
IN S	2,889	265	12	20	16	19	23	-	-	3	1		13	4	129	27
WI E	1,339	198	7	3	9	5	25	1	-	-	1		20	2	69	24
WI W	291	57		4	1	1	10	1	-	5	-	-	3	1	22	9
8TH	17,338	2,353	58	97	103	152	379	65	6	13	22	7	133	16	1,074	240
AR E	4,748	280	6	9	14	20	12	17	-	2	19	1	6	1	169	14
AR W	784	235	4	7	10	6	6	-	1	-	1		8	-	181	9
IA N	457	287	5	8	-	4	68	2	-	1	-	-	14	-	82	3
IA S	797	215	5	16	5	6	42	1	-	-	-	3	15	3	105	11
MN	5,238	262	11	3	13	14	22	23		6			16	4	68	82
MO E	1,588	406	7	3	14	42	109	3	2	4		2	24	3	167	26
MO W	1,573	439	11	1	7	42	48	14	3	-	2	1	19	3	247	46
NE	639	140	5	21	12	5	21	-	-	-	-		18	2	28	28
ND	204	51	-	13	7	2	9	-	-	-	-	-	5	-	7	8
SD	399	115	1	6	20	11	22	5	-	-	-	-	8	-	24	13

RA22

Table C-3A. (September 30, 2007—Continued)

Circuit and District	Total Private Civil Cases	Private Cases								Prisoner Petitions						
		Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
5TH	32,515	7,458	352	77	848	645	12,498	569	2,742	2,126	129	1,828	28	974	889	1,152
LA E	15,418	4,362	94	8	413	154	9,311	197	209	253	1	98	-	21	76	155
LA M	2,204	136	10	1	13	57	1,627	19	160	40	1	119	-	12	34	55
LA W	1,841	481	28	2	168	129	222	81	243	101	1	193	-	20	108	53
MS N	1,181	170	18	2	6	130	384	29	227	60	18	78	-	13	27	27
MS S	2,306	768	84	2	21	125	243	47	372	172	14	292	-	25	58	71
TX N	2,418	371	29	6	1	31	105	56	444	548	24	323	9	140	130	200
TX E	2,187	300	17	35	20	123	177	26	200	370	18	247	7	460	80	101
TX S	3,204	803	43	19	200	80	319	70	463	338	39	307	2	139	252	355
TX W	1,686	246	20	2	-	36	110	34	364	244	15	179	2	135	150	140
6TH	18,614	2,173	810	86	83	380	4,267	370	3,349	2,052	104	1,127	13	590	1,315	1,790
KY E	813	175	25	4	4	62	134	37	169	36	3	23	1	22	57	64
KY W	1,021	212	18	4	24	61	151	16	183	51	4	103	1	24	84	72
MI E	4,853	545	58	19	31	47	439	103	815	975	1	458	4	177	409	875
MI W	1,235	115	10	4	4	15	31	52	161	314	1	324	1	38	69	96
OH N	4,686	357	408	20	6	29	2,781	47	429	281	25	51	3	100	203	144
OH S	2,412	324	313	18	6	28	114	58	620	202	49	87	-	98	266	229
TN E	1,098	184	16	10	-	74	148	17	325	47	7	79	-	32	72	85
TN M	1,272	115	56	3	7	25	369	20	316	64	8	84	-	69	80	58
TN W	1,025	145	10	3	5	39	100	25	331	84	5	132	-	30	55	57
7TH	12,386	1,638	145	84	35	250	765	430	3,342	633	5	1,312	6	602	1,428	1,631
IL N	6,287	851	58	32	14	70	355	334	1,729	158	4	243	-	364	861	1,034
IL C	813	78	9	9	7	14	46	7	218	82	-	421	1	20	79	42
IL S	881	89	8	17	11	45	84	16	139	44	-	262	1	6	78	50
IN N	1,284	181	13	10		63	92	23	439	74	1	105	1	40	147	155
IN S	1,924	283	55	3	3	52	132	34	567	156	-	176	2	59	183	219
WI E	943	123	8	12	-	4	35	11	221	130	-	151	1	78	68	126
WI W	254	33	3	1	-	1	11	5	73	9	-	54	-	33	11	13
8TH	14,985	1,947	60	23	11	242	8,288	368	1,648	609	19	1,032	12	368	737	491
AR E	4,458	97	7	8	2	44	3,568	25	265	103	10	221	3	89	40	43
AR W	471	61	5	2	-	27	58	11	91	7	3	146	-	9	40	10
IA N	250	44	2	1	-	2	33	6	78	14	-	25		12	22	11
IA S	582	69	6	4	1	11	70	19	189	40	-	93	1	27	32	40
MN	5,577	267	19	2	1	27	4,056	130	329	70	-	86	1	157	304	156
MO E	1,584	407	7	3	4	41	220	134	267	241	6	167	1	82	147	75
MO W	1,136	207	13	2	2	61	110	27	255	52	-	181	2	35	100	86
NE	489	94	4	7	-	17	38	8	126	55		77	2	17	23	41
ND	151	43	3	2		8	25	2	15	4	-	20	-	12	8	11
SD	279	56	2	1		14	48	6	52	23	-	36	2	7	12	18

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RA23

Table C-3A. (September 30, 2007—Continued)

Circuit and District	Total Civil Cases	U.S. Cases														
		Total U.S. Civil	Contract	Real Property	Tort Actions	Civil Rights	Prisoner Petitions: Motions to Vacate Sentence	Prisoner Petitions: Habeas Corpus General	Prisoner Petitions: Death Penalty	Prisoner Petitions: Prison Civil Rights	Prisoner Petitions: Prison Condition	Prisoner Petitions: Mandamus and Other	Forfeitures and Penalties	Labor Suits	Social Security	All Other
9TH	48,327	7,856	282	168	489	566	779	410	13	67	4	141	447	53	2,582	1,654
AK	409	165	8	7	39	17	10	-	-		1		12	2	29	31
AZ	3,969	608	16	8	57	56	192	94	-	4	1	17	23	5	145	80
CA N	8,318	901	46	8	56	110	56	20	1	5	1	8	57	13	140	382
CA E	5,429	841	17	7	41	18	147	98	1	31	-	11	86	5	354	185
CA C	9,944	2,115	106	4	82	98	97	104	11	12	-	15	121	10	980	507
CA S	2,134	482	14	7	69	47	78	7		3		38	34	2	72	111
H	825	119	5	5	19	24	13	-	-	-	1	1	9		4	37
ID	621	112	1	5	7	8	7	-					6	2	34	42
MT	648	205	9	26	26	11	40	4	-				6	2	58	31
NV	2,831	382	9	9	26	73	48	31	-	8	-	32	30	3	77	91
OR	2,504	725	6	2	16	31	34	8	-	1	-	20	25	3	497	97
WA E	550	193	6	7	11	15	30	1	-	-	-	-	15	-	84	24
WA W	2,136	489	9	5	33	33	23	41		2	-	1	18	6	201	117
GUAM	44	17	-	-	6	2	2	-	-	-	-	-	4			3
NMI	56	13	-	-	1	5	2	2	-	1	-	-	1			1
10TH	8,979	2,881	51	114	124	178	266	86	-	29	45	5	126	15	716	334
CO	2,109	439	3	28	22	41	29	27	-	9	33		29	3	111	104
KS	1,446	126	11	21	5	20	27	45	-	14	11	2	21	-	118	29
NM	1,037	324	11	5	48	52	48	1	-	-	1	-	41	4	64	49
OK N	761	188	4	25	3	7	30	4		-	-	-	6	2	84	14
OK E	421	181	3	7	5	2	11	8	-	3			4	-	132	6
OK W	1,093	281	9	12	24	21	15					3	2	1	149	45
UT	1,241	235	9	11	14	24	36	1		3			16	5	54	60
WY	314	107	1	3	3	3	69					-	7	-	4	27
11TH	27,765	4,349	142	515	169	212	721	173	3	25	22	18	221	27	1,590	502
AL N	3,675	495	6	2	15	26	52	16				-	24	3	333	18
AL M	1,056	173	2	-	4	13	39	4		-	-	-	21	-	69	10
AL S	748	147	5	6	4	6	43	3	-	-			8		69	3
FL N	1,342	369	16	1	12	27	100	28	-	-	6	1	23	2	143	10
FL M	11,880	1,217	23	83	80	38	182	74	-	15	12	6	44	6	520	191
FL S	4,501	1,124	54	417	33	36	156	21	2	2	1	3	32	8	155	204
GA N	2,516	477	30	3	17	49	91	22	1	7	3	7	33	7	126	78
GA M	1,183	223	3	1	8	9	34	3	-	-	-	-	16	1	125	20
GA S	833	123	3	2	10	8	22	2	-	1	-	1	16	1	39	12

RA24

Table C-3A. (September 30, 2007—Continued)

Circuit and District	Total Private Civil Cases	Private Cases								Prisoner Petitions						
		Contract	Real Property	FELA*	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Civil Rights	Habeas Corpus General	Death Penalty	Conditions and Civil Rights	Mandamus and Other	Copyright, Patent, Trademark	Labor Suits	All Other
9TH	32,770	3,586	216	56	226	242	3,140	687	4,825	6,545	281	4,624	127	2,361	1,957	3,698
AK	244	66	3	-	10	4	28	5	48	24	-	11	-	3	15	27
AZ	2,371	370	19	3	1	42	120	39	488	357	48	459	7	134	91	192
CA N	7,417	538	28	4	29	14	1,900	254	747	966	40	627	5	540	483	1,246
CA E	5,488	251	36	12	2	26	115	34	647	1,921	46	1,981	9	87	141	197
CA C	7,629	825	33	8	16	27	337	173	1,041	2,044	90	459	1	1,232	644	602
CA S	1,652	222	11	-	17	5	64	42	253	126	7	162	5	182	93	393
HI	507	114	9	-	26	1	50	8	178	4	-	26	-	16	31	46
ID	199	87	8	-	-	10	36	9	85	52	11	130	2	11	28	40
MT	443	137	14	3		24	51	10	52	35	-	69	-	4	22	42
NV	2,449	469	18	2	4	30	149	43	472	376	31	259	14	171	155	216
OR	1,770	208	14	4	12	32	84	36	428	434	6	131	83	87	91	120
WA E	366	55	11	8	-	7	23	4	84	33	1	69	1	7	21	53
WA W	1,647	265	16	12	108	13	175	29	282	109	1	291	-	98	134	207
GUAM	27	8	1	-	1	2	2	1	4			1				7
NMI	43	8	-	-		2	6		17	-	-	-	-	1	8	1
10TH	6,898	1,181	91	39	4	285	622	106	1,878	691	34	738	8	328	326	736
CO	1,662	365	21	12	3	38	113	19	361	145	-	221	-	101	77	186
KS	1,120	168	5	12		36	95	28	280	50	-	134	2	34	89	187
NM	1,278	171	26	6	-	55	141	14	537	78	-	95	-	27	42	86
OK N	571	98	7	4	-	8	37	7	150	117	14	18	2	11	48	43
OK E	240	19	4	3	1	10	15	2	58	62	3	48	2	2	6	6
OK W	812	131	6			21	71	14	241	81	14	103	2	25	28	75
UT	1,036	204	14	2	-	14	110	19	205	30	2	98		127	52	120
WY	207	35	8	-	-	21	40	3	37	19	1	21	-	1	7	11
11TH	23,428	2,381	150	9	182	318	7,476	280	3,106	1,842	131	1,762	32	689	3,731	1,312
AL N	3,180	209	20	4	2	64	107	30	519	144	26	180	-	24	1,731	120
AL M	985	108	4	-	-	34	70	13	249	85	8	208	7	7	36	55
AL S	601	121	10	-	13	17	23	39	90	30	8	121	-	13	23	33
FL N	873	125	5	-	-	12	47	6	205	230	11	225	4	27	43	34
FL M	10,983	538	17	1	31	47	6,808	55	870	889	57	266	5	201	929	365
FL S	3,177	641	23	-	108	26	254	50	426	204	4	235	6	219	788	410
GA N	2,344	397	46	2	1	67	272	67	639	189	7	131	6	101	139	220
GA M	893	97	8	1	2	33	89	11	215	102	3	244	-	17	45	46
GA S	512	90	3	1	5	18	27	14	93	49	1	181	2	5	10	25

*FELA FEDERAL EMPLOYERS LIABILITY ACT



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Search Criteria

Court:
U.S. District Courts > District of Columbia - Federal Courts
Date Range: 01/2009 to 06/2009

Litigation Refinements
Practice Area:
Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

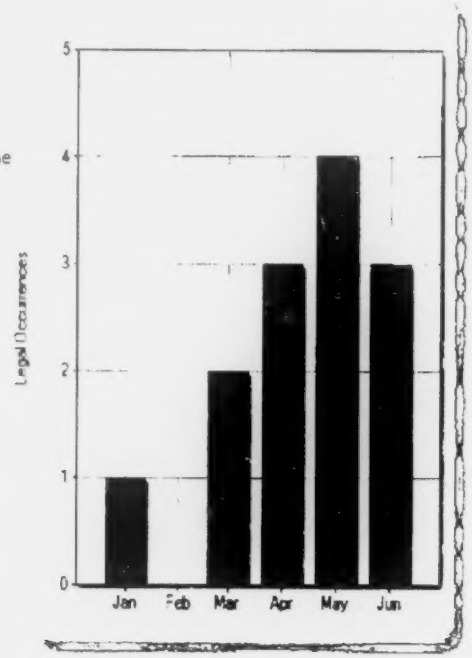
Litigation: Practice Area Trends & Analysis

The Practice Area Trends & Analysis section uses West's KeySearch topics to analyze litigation activity by practice area. The practice area of an opinion is based on the topics that occur most frequently in the text of the opinion and the West headnotes. Litigation events are analyzed by the overall share of events pertaining to a particular practice area and the number of events per year for each practice area during the selected date range.

Practice Area	Occurrences	%	Practice Area Trend
... > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	13	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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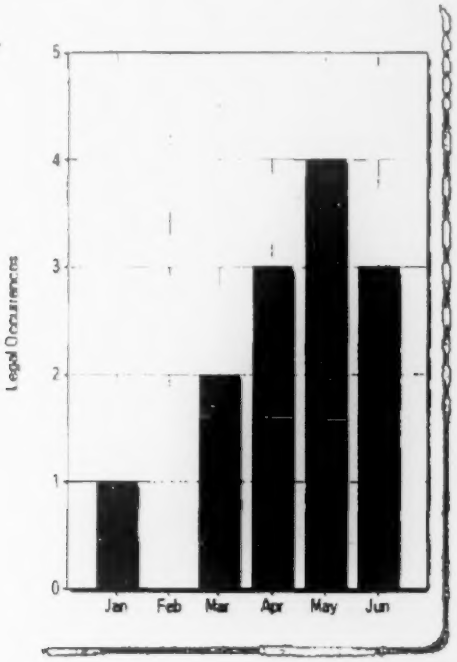


Litigation: Court Trends & Analysis

The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

Courts	Occurrences	%	Courts Trend
U.S. District Courts > District of Columbia - Federal Courts	13	100.0%	

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RA29



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Search Criteria

Court:

U.S. District Courts > Maine - Federal Courts
U.S. District Courts > Massachusetts - Federal Courts
U.S. District Courts > New Hampshire - Federal Courts
U.S. District Courts > Puerto Rico - Federal Courts
U.S. District Courts > Rhode Island - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

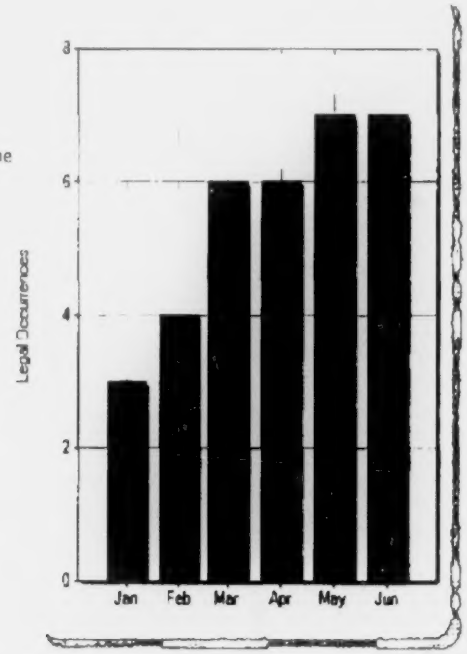
Litigation: Practice Area Trends & Analysis

The Practice Area Trends & Analysis section uses West's KeySearch topics to analyze litigation activity by practice area. The practice area of an opinion is based on the topics that occur most frequently in the text of the opinion and the West headnotes. Litigation events are analyzed by the overall share of events pertaining to a particular practice area and the number of events per year for each practice area during the selected date range.

Practice Area	Occurrences	%	Practice Area Trend
... > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	33	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

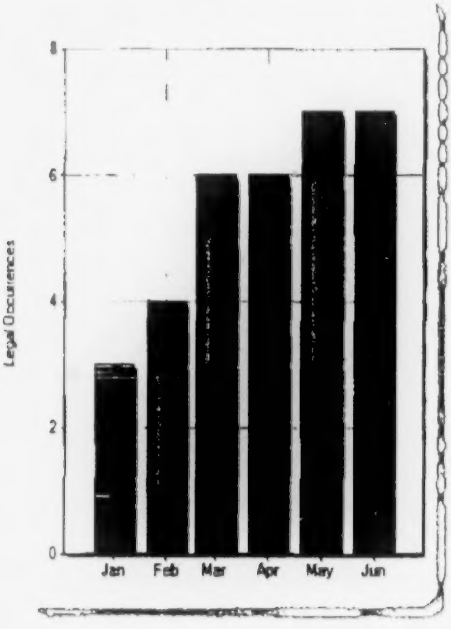
The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

Courts Distribution



Courts	Occurrences	%
U.S. District Courts - Massachusetts - Federal Courts	19	57.6%
[illegible]	7	21.2%
U.S. District Courts - Maine - Federal Courts	4	12.1%
[illegible]	2	6.1%
U.S. District Courts - New Hampshire - Federal Courts	1	3.0%

Courts Trend



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RA33

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Search Criteria

Court:

U.S. District Courts > Connecticut - Federal Courts
U.S. District Courts > New York - Federal Courts
U.S. District Courts > Vermont - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

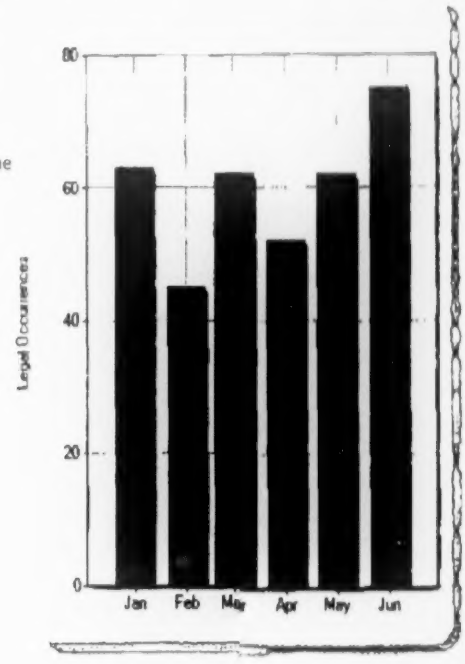
Litigation: Practice Area Trends & Analysis

The Practice Area Trends & Analysis section uses West's KeySearch topics to analyze litigation activity by practice area. The practice area of an opinion is based on the topics that occur most frequently in the text of the opinion and the West headnotes. Litigation events are analyzed by the overall share of events pertaining to a particular practice area and the number of events per year for each practice area during the selected date range.

Practice Area	Occurrences	%	Practice Area Trend
.. > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	359	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

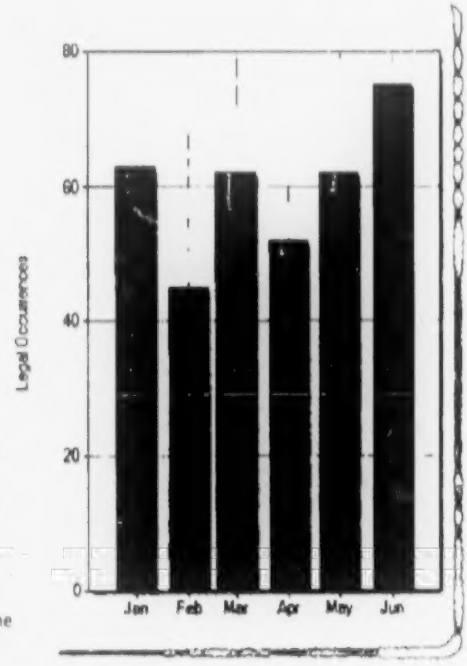
Courts Distribution



Courts	Occurrences	%
U.S. District Courts - New York - Federal Courts	344	95.8%
[illegible]	14	3.9%
U.S. District Courts - Vermont - Federal Courts	1	0.3%

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Courts Trend





Search Criteria

Court:

U.S. District Courts > Delaware - Federal Courts
U.S. District Courts > New Jersey - Federal Courts
U.S. District Courts > Pennsylvania - Federal Courts
U.S. District Courts > Virgin Islands - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

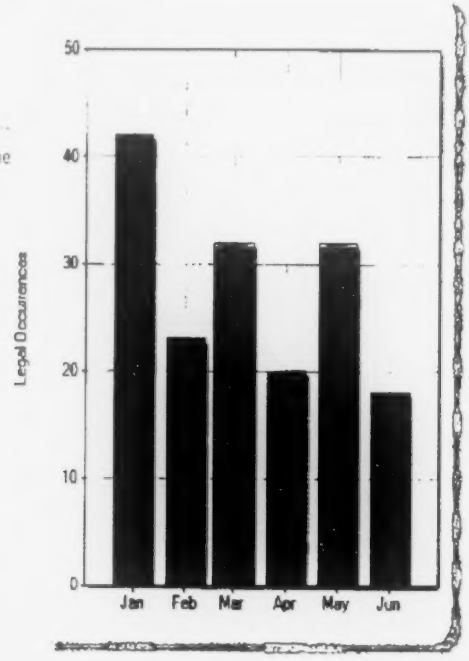
Litigation: Practice Area Trends & Analysis

The Practice Area Trends & Analysis section uses West's KeySearch topics to analyze litigation activity by practice area. The practice area of an opinion is based on the topics that occur most frequently in the text of the opinion and the West headnotes. Litigation events are analyzed by the overall share of events pertaining to a particular practice area and the number of events per year for each practice area during the selected date range.

Practice Area	Occurrences	%	Practice Area Trend
... > Fair Labor Standards Act > Federal NCS: Labor: Fair Labor Standards Act (710)	167	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NCS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

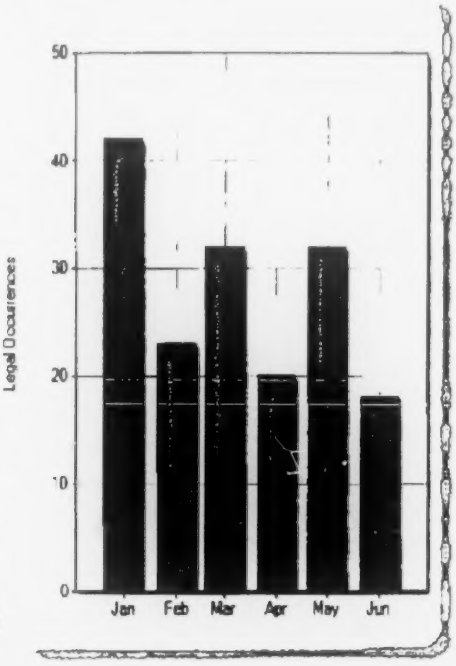
Courts Distribution



Courts	Occurrences	%
U.S. District Courts > Pennsylvania - Federal Courts	103	61.7%
[illegible]	56	33.5%
U.S. District Courts > Delaware - Federal Courts	8	4.8%

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Courts Trend



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Search Criteria

Court:

U.S. District Courts > Maryland - Federal Courts
U.S. District Courts > North Carolina - Federal Courts
U.S. District Courts > South Carolina - Federal Courts
U.S. District Courts > Virginia - Federal Courts
U.S. District Courts > West Virginia - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

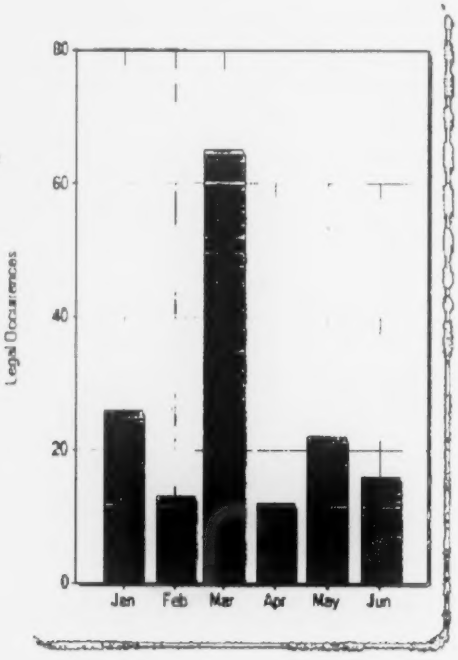
Litigation: Practice Area Trends & Analysis

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Practice Area	Occurrences	%	Practice Area Trend
> Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	154	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

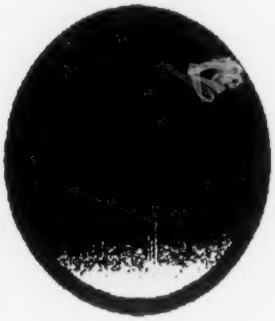
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Litigation: Court Trends & Analysis

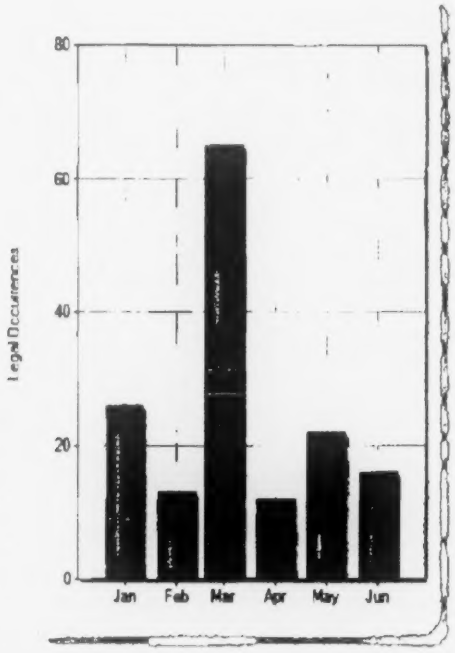
The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

Courts Distribution



Courts	Occurrences	%
U.S. District Courts - North Carolina - Federal Courts	49	31.8%
[illegible]	47	30.5%
U.S. District Courts - Maryland - Federal Courts	31	20.1%
[illegible]	14	9.1%
U.S. District Courts - West Virginia - Federal Courts	13	8.4%

Courts Trend



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FLSA 5th Circuit - 2009 Litigation Report



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Search Criteria

Court:

U.S. District Courts > Louisiana - Federal Courts
U.S. District Courts > Mississippi - Federal Courts
U.S. District Courts > Texas - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

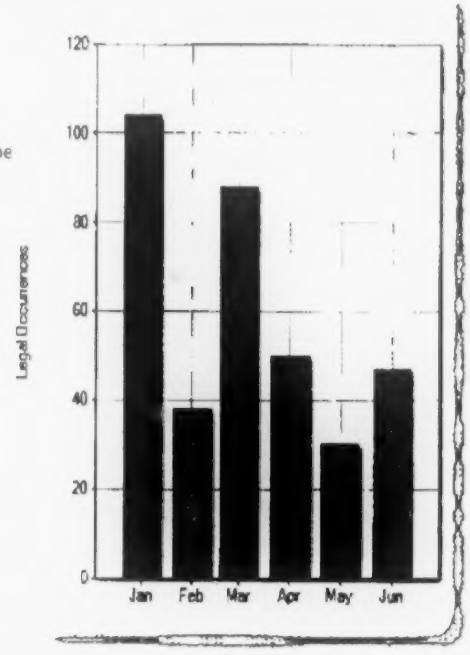
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Practice Area	Occurrences	%	Practice Area Trend
...> Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	357	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

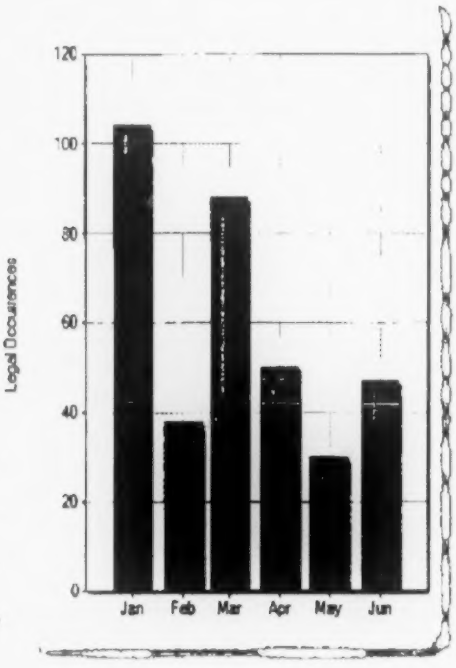
Courts Distribution



Courts	Occurrences	%
U.S. District Courts > Texas - Federal Courts	279	78.2%
U.S. District Courts > Mississippi - Federal Courts	64	17.9%
U.S. District Courts > Louisiana - Federal Courts	14	3.9%

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Courts Trend





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Search Criteria

Court:
U.S. District Courts > Kentucky - Federal Courts
U.S. District Courts > Michigan - Federal Courts
U.S. District Courts > Ohio - Federal Courts
U.S. District Courts > Tennessee - Federal Courts
Date Range: 01/2009 to 06/2009

Litigation Refinements
Practice Area:
Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

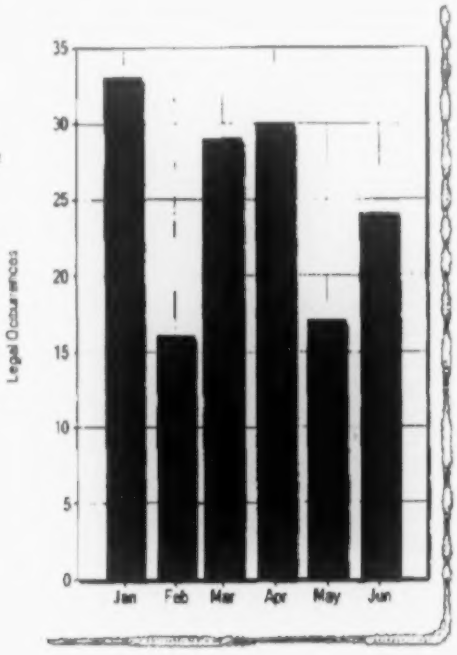
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Practice Area	Occurrences	%	Practice Area Trend
... > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	149	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

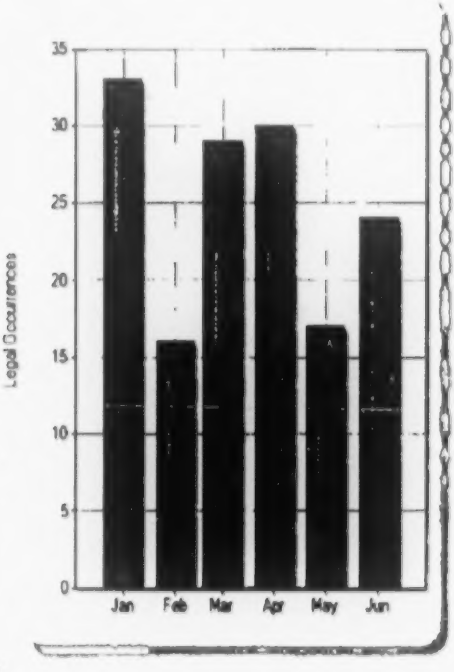
Courts Distribution



Courts	Occurrences	%
U.S. District Courts > Tennessee > Federal Courts	74	49.7%
[illegible]	47	31.5%
U.S. District Courts > Michigan > Federal Courts	25	16.8%
[illegible]	3	2.0%

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Courts Trend





Search Criteria

Court:

U.S. District Courts > Illinois - Federal Court
U.S. District Courts > Indiana - Federal Courts
U.S. District Courts > Wisconsin - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

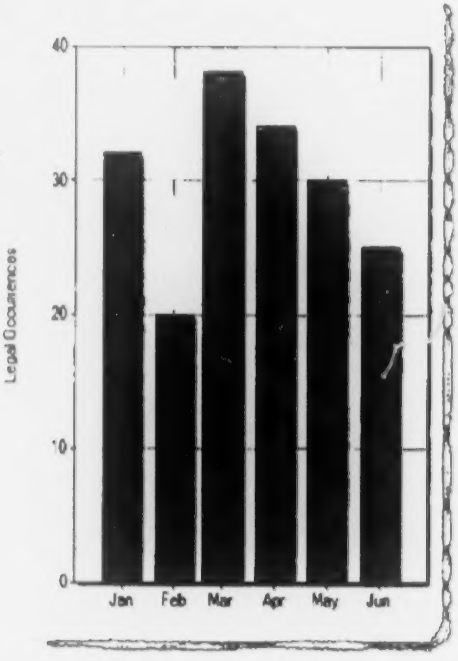
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Practice Area	Occurrences	%	Practice Area Trend
.. > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	179	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

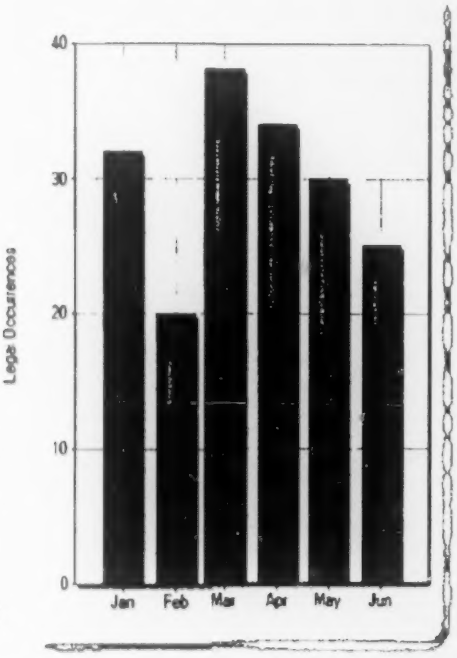
Courts Distribution



Courts	Occurrences	%
U.S. District Courts > Illinois - Federal Court	124	69.3%
[illegible]	36	20.1%
U.S. District Courts > Wisconsin - Federal Courts	19	10.6%

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Courts Trend





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Search Criteria

Court:

U.S. District Courts > Arkansas - Federal Courts
U.S. District Courts > Iowa - Federal Courts
U.S. District Courts > Minnesota - Federal Courts
U.S. District Courts > Missouri - Federal Courts
U.S. District Courts > Nebraska - Federal Courts
U.S. District Courts > North Dakota - Federal Courts
U.S. District Courts > South Dakota - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

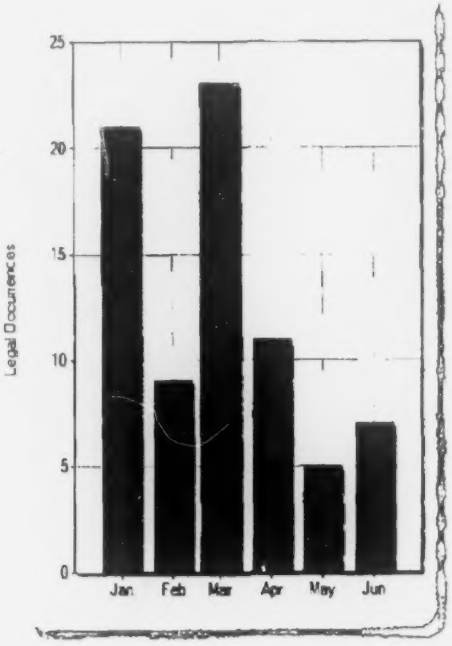
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Practice Area	Occurrences	%	Practice Area Trend
... > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	76	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

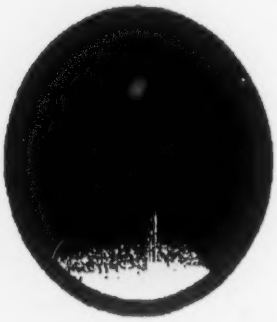
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Litigation: Court Trends & Analysis

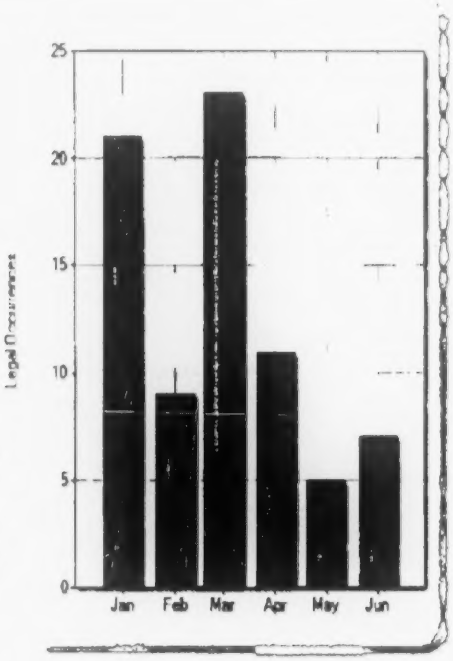
The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

Courts Distribution



Courts	Occurrences	%
U.S. District Courts > Missouri - Federal Courts	30	39.5%
U.S. District Courts > Arkansas - Federal Courts	20	26.3%
U.S. District Courts > Iowa - Federal Courts	10	13.2%
[illegible]	10	13.2%
U.S. District Courts > Nebraska - Federal Courts	4	5.3%
[illegible]	2	2.6%

Courts Trend



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Search Criteria

Court:

U.S. District Courts > Alaska - Federal Courts
U.S. District Courts > Arizona - Federal Courts
U.S. District Courts > California - Federal Courts
U.S. District Courts > Guam - Federal Courts
U.S. District Courts > Hawaii - Federal Courts
U.S. District Courts > Idaho - Federal Courts
U.S. District Courts > Montana - Federal Courts
U.S. District Courts > N. Mariana Islands - Federal Courts
U.S. District Courts > Nevada - Federal Courts
U.S. District Courts > Oregon - Federal Courts
U.S. District Courts > Washington - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

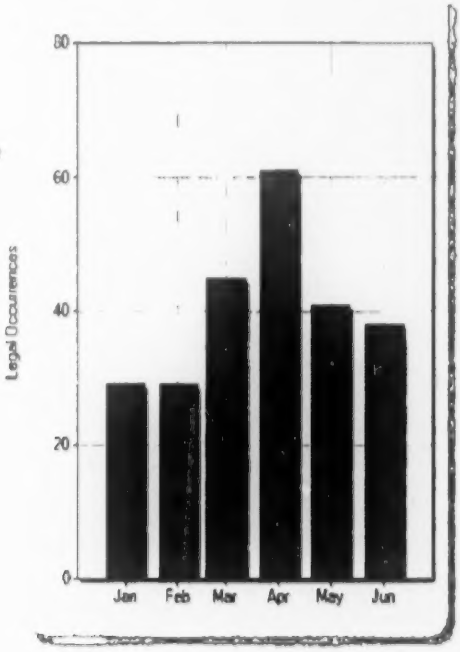
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Practice Area	Occurrences	%	Practice Area Trend
... > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	243	100.0%	

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Litigation: Court Trends & Analysis

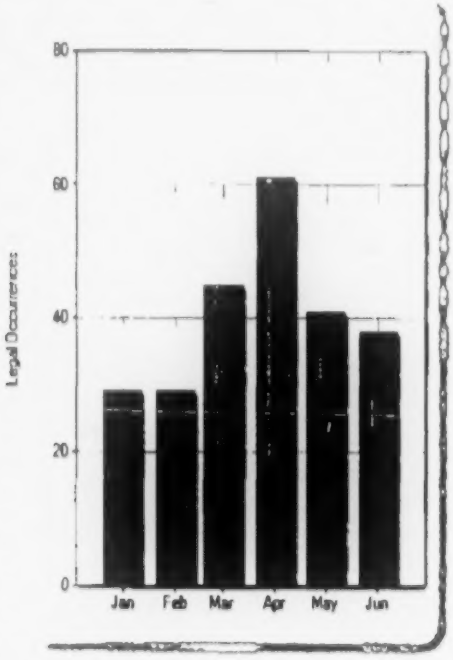
The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

Courts Distribution



Courts	Occurrences	%
U.S. District Courts - California - Federal Courts	143	59.8%
U.S. District Courts - [illegible] - Federal Courts	41	16.9%
U.S. District Courts - Nevada - Federal Courts	14	5.8%
U.S. District Courts - [illegible] - Federal Courts	14	5.8%
U.S. District Courts - Idaho - Federal Courts	9	3.7%
U.S. District Courts - [illegible] - Federal Courts	9	3.7%
U.S. District Courts - N. Mariana Islands - Federal Courts	6	2.5%
U.S. District Courts - [illegible] - Federal Courts	5	2.1%
U.S. District Courts - Alaska - Federal Courts	2	0.8%

Courts Trend



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Search Criteria

Court:

U.S. District Courts > Colorado - Federal Courts
U.S. District Courts > Kansas - Federal Courts
U.S. District Courts > New Mexico - Federal Courts
U.S. District Courts > Oklahoma - Federal Courts
U.S. District Courts > Utah - Federal Courts
U.S. District Courts > Wyoming - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

Litigation: Practice Area Trends & Analysis

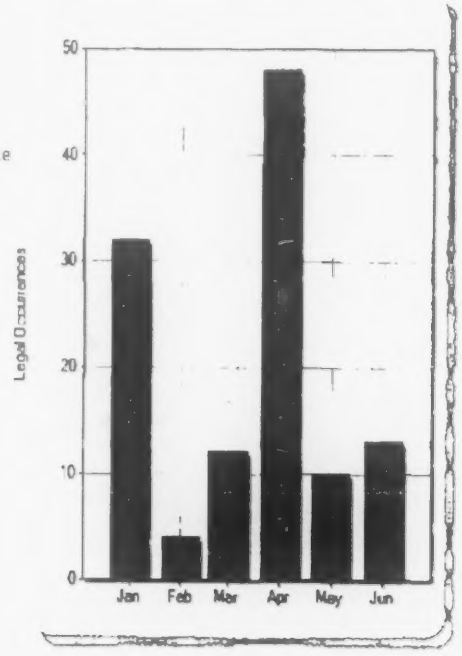
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Practice Area	Occurrences	%
...> Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	119	100.0%

Employment/Labor ... Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Practice Area Trend



Litigation: Court Trends & Analysis

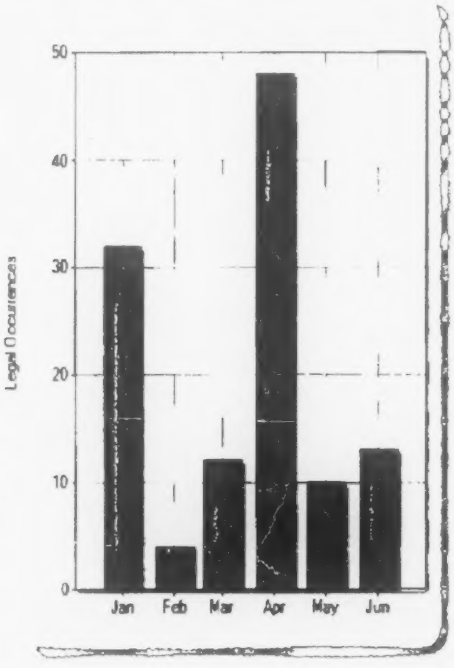
The Court Trends & Analysis displays the state and federal courts in which matters pertaining to the practice area were litigated during the selected date range. Litigation events are analyzed by the overall share of events litigated in a particular jurisdiction.

Courts Distribution



Courts	Occurrences	%
U.S. District Courts - Kansas Federal Courts	53	44.5%
[illegible]	42	35.3%
U.S. District Courts - Colorado Federal Courts	15	12.6%
[illegible]	5	4.2%
U.S. District Courts - Utah Federal Courts	3	2.5%
[illegible]	1	0.8%

Courts Trend



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FLSA 11th Circuit - 2009 Litigation Report



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Search Criteria

Court:

U.S. District Courts > Alabama - Federal Courts
U.S. District Courts > Georgia - Federal Courts
U.S. District Courts > Florida - Federal Courts

Date Range: 01/2009 to 06/2009

Litigation Refinements

Practice Area:

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

RA71

Litigation: Practice Area Trends & Analysis

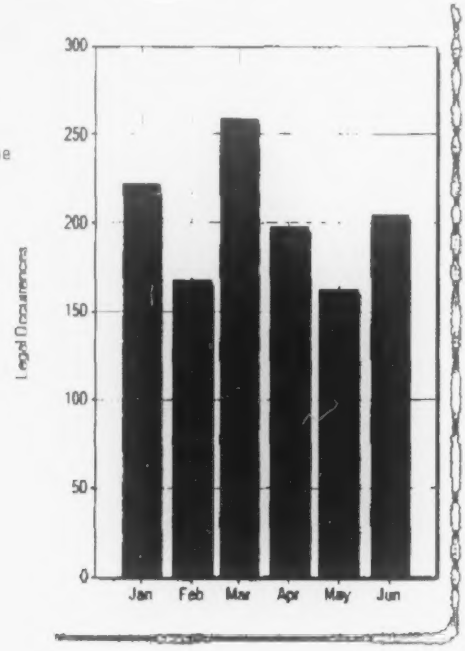
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Practice Area	Occurrences	%
.. > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)	1214	100.0%

Employment/Labor > Fair Labor Standards Act > Federal NOS: Labor: Fair Labor Standards Act (710)

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Practice Area Trend



Litigation: Court Trends & Analysis

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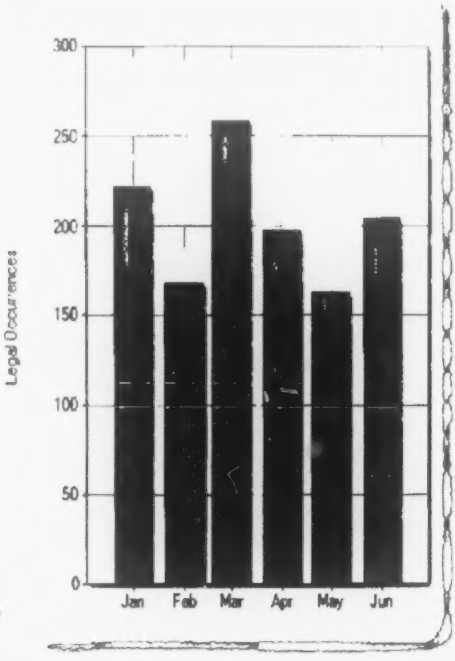
Courts Distribution



Courts	Occurrences	%
U.S. District Courts - Florida - Federal Courts	1059	87.2%
[illegible]	93	7.7%
U.S. District Courts - Alabama - Federal Courts	62	5.1%

View Report Online

Courts Trend



AMICUS CURIAE BRIEF

MOTION FILED

APR 29 2009

No. 08-1287

IN THE

Supreme Court of the United States

FAMILY DOLLAR STORES, INC.,

Petitioner,

v.

JANICE MORGAN, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* OF THE CHAMBER OF COMMERCE OF THE UNITED STATES AND BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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Attorneys for Amicus Curiae Chamber of Commerce of the United States of America

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MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

Pursuant to S. Ct. Rule 37.2, the Chamber of Commerce of the United States of America (the "Chamber") moves for leave to file a brief *amicus curiae* in support of the Petition for a Writ of Certiorari to the Eleventh Circuit Court of Appeals in *Family Dollar Stores, Inc. v. Morgan*, 08-1822. A copy of the proposed brief *amicus curiae* accompanies this Motion. The Chamber files this Motion because counsel for Respondents have refused to consent to the filing of this brief.

1. The Chamber is the largest federation of businesses and associations in the world. It represents an underlying membership of nearly 3,000,000 businesses and organizations of every size, in every region of the country. An important function of the Chamber is to give voice to the interests and concerns of American business on important matters before the courts, the United States Congress, the Executive Branch, and independent regulatory agencies of the federal government. The Chamber has advanced those interests, *inter alia*, by filing briefs in more than 1,000 cases of importance to the business community. Those cases include one employment law case pending before the Court, *Gross v. FBL Financial Services, Inc.*, 08-441 (*certiorari* granted Dec. 5, 2008), as well as other cases dealing with various aspects of federal employment law. *See, e.g., Sprint/United Management Co. v. Mendelsohn*, 128 S. Ct. 1140 (U.S. 2008); *Federal Exp. Corp. v. Holowecki*, 128 S. Ct. 1147 (U.S. 2008); *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007).

2. Chamber members are currently facing an unprecedented increase in the number of "collective action" cases under the Fair Labor Standards Act. FLSA collective action filings now outnumber discrimination class actions filed under other federal employment laws such as Title VII.

3. Among the most troublesome aspects of this new wave of litigation is the almost total absence of meaningful standards for district courts to use in determining whether such cases can proceed to trial as collective actions. That decision is typically made by district judges under what has appropriately been called the "ad hoc" approach, which offers no fixed, reliable criteria for determining whether the individuals in the putative plaintiff group are sufficiently homogeneous to qualify as "similarly situated," the relevant statutory language. Under this approach, the results in a given case depend in large measure on the judge before whom the case is pending. Because employers value predictability and stability in the law, it is intolerable for the outcome of such important questions to depend upon the courtroom in which the motion is heard. That state of affairs, however, is likely to persist absent guidance from this Court.

4. The court of appeals in this case adopted an approach for collective action certifications that will make it all but impossible for businesses to obtain a fair hearing on the merits of most FLSA collective action cases. That approach will also materially escalate the costs and risks associated with defending those cases and, accordingly, will increase the nearly inexorable pressure on defendants to settle these cases, even when valid defenses exist.

5. For Chamber members with national operations or that do business within the Eleventh Circuit, the opinion below may establish a *de facto* nationwide standard. Because the decision would permit a plaintiff to obtain collective action status simply by proving that the employees at issue shares some job-related characteristics, plaintiffs lawyers will almost certainly choose district courts in the Eleventh Circuit for such cases in the future whenever possible, burdening those courts and delaying access to the courts by litigants with disputes of other sorts.

The Chamber submits that the views of the business community on these important issues will be helpful to the Court in determining whether to grant the Petition. Accordingly, the Chamber respectfully moves the Court to grant this Motion and allow the filing of the accompanying brief.

Respectfully submitted,

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Chamber of Commerce of the United States of America

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INTEREST OF THE *AMICUS*[1]

The Chamber of Commerce of the United States of America (the Chamber) is the voice of American business. It is the largest federation of businesses and associations in the world, representing an underlying membership of nearly 3,000,000 businesses and organizations of every size, in every region of the country. As explained at greater length in the accompanying Motion for Leave to File Brief *Amicus Curiae*, Chamber members are currently facing an explosion of "collective action" suits under the Fair Labor Standards Act. These cases pose particular concern for Chamber members because there currently is no meaningful set of standards for district courts to apply in determining whether to permit such cases to proceed in the collective action format. For the reasons provided below, the Chamber joins the numerous district courts that have decried this lack of guidance, and it urges the Court to grant review.

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1. No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. The Petitioner has consented to the filing of this brief. Respondents have not. A monetary contribution intended to fund the preparation of this brief in part was made by Dollar Tree Stores, Inc., which is involved in similar litigation currently pending in the United States District Court for the Northern District of Alabama.

INTRODUCTION AND SUMMARY OF ARGUMENT

For more than 70 years, the lower federal courts have had a single two-word phrase — "similarly situated" — to help them determine whether plaintiffs are entitled to pursue the peculiar form of mass litigation available under Section 216(b) of the Fair Labor Standards Act ("FLSA"). 29 U.S.C. § 216(b). This Court has never considered the meaning of that phrase. Until the decision below, the courts of appeals had not meaningfully considered the phrase either due to the unique opt-in-only structure of those "collective action" cases, the unavailability of interlocutory appeals, and the "hydraulic pressure"[2] that group litigation exerts on defendants to settle. *See* discussion, *infra*, pp. 8-10.

The absence of meaningful appellate guidance on this critical question is a recurrent problem for district courts. FLSA collective action filings in the federal courts are now more numerous than any other type of collective or class action.[3] These collective action filings now *far* outnumber discrimination class actions under Title VII.[4] Thus, it is no wonder that district judges

2. *Newton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 259 F.3d 154, 164 (3d Cir. 2001) ("class certification places inordinate or hydraulic pressure on defendants to settle, avoiding the risk, however small, of potentially ruinous liability").

3. *See* Emery G. Lee, et al., *The Impact of the Class Action Fairness Act of 2005 on the Federal Courts*, Federal Judicial Center 3-4 (Apr. 2008) ("Federal Judicial Center Report").

4. *See* Nancy Montwieler, *Wage-Hour Class Actions Surpassed EEO In Federal Courts Last Year, Survey Shows*, 56 DAILY LAB. REP., at C-1, Mar. 22, 2002.

throughout the country regularly lament the lack of assistance they have received on how to handle this opaque statutory standard:

> Section 216(b) does not define "similarly situated," and neither the United States Supreme Court nor the [courts of appeals] have offered [district courts] guidance as to how [they] should determine whether the representative plaintiffs are "similarly situated" to the putative plaintiffs.

Pagliolo v. Guidant Corp., No. Civ. 06-943, 2007 WL 2892400, at *1 (D. Minn. Sept. 28, 2007). The court in *Pagliolo* was complaining specifically about the absence of Eighth Circuit precedent, but identical complaints appear in reported decisions from every Circuit — and nearly every judicial district in the country.[5] *See* discussion, *infra*, on p. 7, and n.12. In the absence of controlling guidance, the phrase "similarly situated" has become a Rorschach test for every district judge who encounters it, with the fate of each collective action certification motion turning not simply upon the circuit in which the case arises, but upon the district judge who hears it.

Although there is little or no authority on the meaning of "similarly situated" in the FLSA context,

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5. One day after this case was docketed, Respondents waived their right to file an answering brief, dramatically shortening the time available for the preparation of this brief. Accordingly, *amicus* was unable to perform the district-by-district analysis that would have been necessary to confirm the statement in the text.

the phrase is a common one in other employment law cases. In discrimination and retaliation cases, every circuit has previously held, in form or substance, that "[i]n order for . . . employees to be considered similarly-situated . . . all of the relevant aspects of [the compared employees'] employment situation [must be] nearly identical."[6] The court below, however, concluded that all 1,424 of the plaintiffs in this action were similarly situated simply because they "shared a number of factual details with respect to their job duties and day-to-day work [and] share[d] common job traits." *Morgan v. Family Dollar Stores, Inc.*, 551 F.3d 1233, 1263 (11th Cir. 2008).

After concluding that a few "common job traits" were sufficient to justify collective action status, the court affirmed a trial plan by which Petitioner was held liable to all 1,424 of the plaintiffs on the basis of testimony from just seven individuals handpicked by Plaintiffs' counsel. This schematic cannot be reconciled with even the most basic notions of fairness or the FLSA's underlying exemption standards. The applicable FLSA substantive liability standard requires the finder of fact to consider a long list of individualized factors,[7] decide the relative importance of each "on a case-by-case basis,"[8] largely without regard to job titles or descriptions, and to render a decision based on the facts

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6. *Pierce v. Commonwealth Life Ins. Co.*, 40 F.3d 796, 802 (6th Cir. 1994). *See also* cases collected, *infra*, at p. 17 n.20.

7. 29 C.F.R. § 541.102.

8. *Id.* § 541.106(a).

of each "particular case."[9] A trial decided on the basis of the testimony of a handful of individuals (.005% of the "class") who need only share "a number of factual details" cannot accomplish this fact-intensive task.

This case represents a rare — indeed, unique — opportunity for the Court to correct the Eleventh Circuit's error and fill the void that has bedeviled so many district judges across the country. It is the only FLSA case in which the meaning of the "similarly situated" standard has ever been squarely presented to this Court.[10] This is true even though cases in which the phrase arises are commonplace and are consuming

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9. *Id.* § 541.700(a).

10. In *Anderson v. Cagle's Inc.*, 488 F.3d 945, 952-55 (11th Cir. 2007), *cert denied*, 128 S.Ct. 2902 (2008), the petition presented an unrelated question regarding "donning and doffing" claims under 29 U.S.C. § 203(o). The court of appeals decision in *Anderson* is the only other appellate opinion to consider the certification standard in an FLSA collective action, although it too failed to define the standard in any discernible sense. Five appellate decisions have considered certification standards in collective actions under the Age Discrimination in Employment Act which relies upon the same "similarly situated" language. *See Thiessen v. Gen. Elec. Capital Corp.*, 267 F.3d 1095 (10th Cir. 2001), *cert. denied*, 536 U.S. 934 (2002); *Hipp v. Liberty Nat'l Life Ins. Co.*, 252 F.3d 1208 (11th Cir. 2001), *cert. denied*, 534 U.S. 1127 (2002); *Grayson v. K Mart Corp.*, 79 F.3d 1086 (11th Cir. 1996), *cert. denied*, 519 U.S. 987 (1996); *Mooney v. Aramco Servs. Co.*, 54 F.3d 1207 (5th Cir. 1995); *Lockhart v. Westinghouse Credit Corp.*, 879 F.2d 43 (3d Cir. 1989). These decisions offer little if any guidance about the phrase "similarly situated" even in the context of age discrimination litigation, and nothing at all to illuminate the phrase's application in the context of FLSA cases like this one.

an ever greater share of the nation's judicial resources. District courts now regularly receive appellate guidance on the application of Fed. R. Civ. P. 23, and opportunities regularly present themselves to the Court for it to consider open questions in that arena if it chooses, but under the FLSA, there is no "next case" waiting in the wings for the Court to select. The Court should grant the writ.

REASONS FOR GRANTING THE PETITION

I. Collective Actions Now Dwarf Other Kinds Of Mass Litigation, And The Lower Courts Are Expressly, Repeatedly Lamenting The Lack Of Appellate Guidance On The Question Presented

There is no inter-circuit conflict in this case. That is not, however, because the issue presented is unimportant or because it arises infrequently. Indeed, it almost certainly is among the most important questions confronting district judges today that has evaded any meaningful appellate review. The construction of the phrase "similarly situated" arises in every FLSA collective action, and actions of that type are now *the most common* class action-type lawsuit filed in the federal courts, dwarfing all other types of class actions except perhaps those under consumer protection laws.[11] *See* Federal Judicial Center Report, at 3. The Federal Judicial Center Report characterized the rising tide of FLSA collective action filings as "striking," noting

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11. This understates the regularity with which district courts are confronted with this language because the data include neither cases under the ADEA nor the Equal Pay Act.

that filings of this sort had increased in "absolute numbers . . . from 337 in the first six-month period studied to 1,104 in the last six-month period — a 228 percent increase." *Id.* at 3-4.

Neither can the absence of an inter-circuit conflict be taken as evidence that the applicable law is well-understood. In nearly 100 reported decisions, district judges have lamented the lack of appellate guidance on this critical question.[12] The judges in each such case have observed, in roughly comparable language, that the "FLSA does not define the term 'similarly situated' and neither the United States Supreme Court nor the [applicable court of appeals has] provide[d] direct guidance on determining whether potential class members are similarly situated." *Bishop v. AT & T Corp.*, ___ F.R.D. ___, No. 08-CV-468, 2009 WL 763946, at *2 (W.D. Pa. Mar. 23, 2009). These are just a few examples from the first three months of this year: *Wilson v. Guardian Angel Nursing, Inc.*, No. 3:07-0069, 2009 WL 790107, at *5 (M.D. Tenn. Mar. 24, 2009) ("As many courts have noted, 'similarly situated' has not been strictly defined by either Congress or the federal judiciary."); *Howard v. Securitas Security Servs., USA Inc.*, No. 8-CV-2746, 2009 WL 140126, at *1 (N.D. Ill. Jan. 20, 2009) ("neither the FLSA nor its implementing regulations define or provide guidance on the meaning of the term 'similarly situated [and] the Seventh Circuit has yet to provide guidance"); *Davis v. Westgate Planet Hollywood Las Vegas, LLC*, No. 208-CV-00722, 2009 WL

12. This number is likely a significant understatement given the restrictive search methodology *amicus* used. The appendix to this brief lists 87 cases containing similar language.

102735, at *9 (D. Nev. Jan. 12, 2009) ("The FLSA does not define the term 'similarly situated,' and the Ninth Circuit has not yet formulated a test for courts to determine whether putative class members are 'similarly situated.'").

There are no circuit opinions defining a usable standard for "similarly situated," but the reasons are entirely unrelated to the prevalence of the issue or its importance to the district courts. First, the courts of appeals have thus far concluded that no interlocutory "collateral order" review is possible from a "similarly situated" decision.[13] Review of a class decision in an FLSA case, then, must await final judgment. In the traditional class action context, Fed. R. Civ. P. 23(f) was added to the Federal Civil Rules, in part, precisely because the lack of interlocutory review had left many fundamental aspects of Rule 23 "poorly developed." *Blair v. Equifax Check Servs. Inc.*, 181 F.3d 832, 835 (7th Cir. 1999). The same is true with respect to FLSA cases but Rule 23(f) provides no relief.

Second, when a court denies collective action status to a plaintiff group, the easiest recourse for the plaintiffs is often to file another action rather than to appeal. The FLSA's opt-in-only design makes it unusually easy for plaintiffs' lawyers to judge-and-forum shop by filing

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13. *See McElmurry v. U.S. Bank Nat'l Ass'n*, 495 F.3d 1136, 1141 (9th Cir. 2007); *Comer v. Wal-Mart Stores, Inc.*, 454 F.3d 544, 546-49 (6th Cir. 2006); *Baldridge v. SBC Communications, Inc.*, 404 F.3d 930, 931-33 (5th Cir. 2005); *Lusardi v. Lechner*, 855 F.2d 1062, 1065 (3d Cir. 1988). In *amicus'* view, these decisions give the collateral order doctrine an unnecessarily cramped reading.

multiple actions against the same employer in different courts, searching for a single case in which the court will authorize a collective action. That is precisely what happened in this case. Counsel for Respondents here filed a number of different actions, in different districts, all seeking collective action status representing the same group of Family Dollar store managers, asserting the same FLSA claims. Collective action status was denied in several,[14] but in this case counsel obtained collective action status and the largest jury verdict in Alabama in 2006. 16 ALA. L. WEEKLY NO. 6 (Feb. 9, 2007).

Because an individual is not bound by the results in an FLSA case unless he or she has affirmatively opted-in, plaintiffs' lawyers can file new cases *seriatim* until they get the answer they want; when certification is granted, the plaintiffs in any other identical actions simply file opt-in consents in the "successful" action. Plaintiffs and their counsel, then, have no incentive to pursue an appeal from an adverse collective action decision, as it is simpler and cheaper to find a new judge and file a new case. The idiosyncratic procedures and undefined standards applicable to FLSA collective actions and the unique opportunities they present for judge-and-forum shopping have combined to generate vast wealth for the plaintiffs' bar, but have generated only uncertainty for the courts and escalating costs for employers. *See* Michael Orey, *Wage Wars*, Business Week (Oct. 1, 2007), *available at http://www.businessweek.com/magazine/content/07_40/b4052001.htm* (profiling one FLSA attorney who has

14. *See Ward v. Family Dollar Stores, Inc.*, No. 3:06-CV-441, 2008 WL 199699 (W.D.N.C. Jan. 22, 2008); *Grace v. Family Dollar Stores, Inc.*, No. 3:06-CV-306, 2007 WL 2669699 (W.D.N.C. Sept. 6, 2007).

accumulated more than $458 million in settlements within a short time, at least 25% attributable to attorneys' fees.).

Finally, employers are rarely in a position to appeal because they are rarely willing or able to see such litigation through to a final judgment. For employers, the prospect of trial in a collective action case is chilling. With no settled protocol for trying these cases, and with the potentially enormous exposure, settlement is often the most prudent course (even where compelling defenses are available). This, too, was an animating rationale behind Rule 23(f). *See* Fed. R. Civ. P. 23(f), Adv. Comm. Notes (1998) ("An order granting certification . . . may force a defendant to settle rather than incur the costs of defending a class action and run the risk of potentially ruinous liability.").

Members of this Court have previously observed that some lower court confusion over important legal questions can be tolerated for a time while various perspectives on the question develop in the lower courts, permitting the question to "mature" before ultimately reaching this Court for consideration. *See, e.g., McCray v. New York*, 461 U.S. 961, 963 (1983) (Stevens, J., respecting the denial of certiorari); *see also Gressman, Geller, et al., Supreme Court Practice* 246 (9th ed. 2007). Judicial thinking on the present question is not "maturing" or becoming more focused. After more than 70 years of litigation, the persisting lack of guidance on the question is merely becoming more intolerable.

If review is not granted in this case, it seems increasingly unlikely that another opportunity for Supreme Court review will present itself anytime soon.

The Eleventh Circuit's decision below will prove irresistible to the plaintiffs' bar. Given the largely toothless "similarly situated" standard it adopts (discussed immediately below), no employer with operations touching the Eleventh Circuit is likely to be sued anywhere else.

II. The "Similarly Situated" Standard Adopted By The Eleventh Circuit Fails Adequately To Protect The Due Process Rights Of Defendants And The Interests Of Non-Testifying Plaintiffs

Like the commonality, typicality, and predominance requirements of Rule 23, the "similarly situated" standard exists to ensure a degree of homogeneity among the members of the FLSA "class." The critical — and unanswered — questions posed by this cryptic two-word phrase, then, are: what factors must be similar and how similar must they be.

For cases like this one, in which the dispute centers on the exempt status *vel non* of retail store managers, the Department of Labor ("DOL") has largely answered the first question. DOL has provided a non-exhaustive list of activities that are considered managerial:

> Interviewing, selecting, and training of employees; setting and adjusting (or making material especially meaningful recommendations regarding) their rates of pay and hours worked; directing their work; maintaining their production or sales records for use in supervision or control; appraising their productivity and efficiency for the purpose

> of recommending promotions or other changes in their status; handling their complaints and grievances and disciplining them when necessary; planning their work; determining the techniques to be used; apportioning the work among the workers; determining the type of materials, supplies, machinery or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; and providing for the safety of subordinates and property.

29 C.F.R. § 541.102. "Determination of whether an employee has management as his primary duty *must be based on all the facts in a particular case*," 29 C.F.R. § 541.103 (emphasis added), and an individual may be exempt even if he or she performs only one or a few management duties. *Id.*; *see also Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees*, 69 Fed. Reg. 22,122, 22,122-25 (Apr. 23, 2004) (there are "management" functions other than those included in § 541.102 and a "case-by-case analysis" is necessary to determine whether unlisted functions meet the requirement).[15]

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15. *See also Riley v. Town of Basin*, No. 91-8022, 1992 U.S. App. LEXIS 8621, at *9 (10th Cir. 1992) (Table) (noting that the regulations provide *examples* of what constitutes management); *Murphy v. Town of Natick*, 516 F. Supp. 2d 153, 159 (D. Mass. 2007) (DOL regulations merely provide examples of activities which are "typical management duties"); *Thomas v. Speedway Superamerica, LLC*, No. 04-CV-00147, 2006 WL 4969500, at *9-

(Cont'd)

If all of Family Dollar's store managers indisputably performed all of the listed duties, one would have to consider them "similarly situated." Likewise, if Family Dollar managers *never* performed *any* of these duties, they would almost certainly be "similarly situated."

In the real world, however, and despite the most rigorous employer efforts to *design* jobs to be performed in an exempt way, variations in the duties *actually performed* by retail managers at a large company like Family Dollar occur. This can be because of the size of the store. The manager of a small store with a long-tenured staff and minimal turnover may rarely have to interview or hire, may spend little time training, and may have less need to monitor employee performance. The manager of a large store with serious turnover and

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(Cont'd)

10 (S.D. Ohio Mar. 31, 2006), *aff'd*, 506 F.3d 496 (6th Cir. 2007) (describing the regulation as providing "guidelines" for interpreting what management means); *Beauchamp v. Flex-N-Gate, LLC*, 357 F. Supp. 2d 1010, 1015-16 (E.D. Mich. 2005) (comparing commonalities between an employee's listed responsibilities to the "regulatory examples of 'management' duties"); *see also DOL Wage & Hour Opinion Letter FLSA2009-32*, 2009 WL 649044 (Jan. 16, 2009) (Supervisory Special Agent position fit within "management" exemption where duties included only 6 of the 14 activities listed in the regulation); *DOL Wage & Hour Opinion Letter FLSA2008-4NA*, 2008 WL 1847287 (Feb. 29, 2008) (plant managers satisfy "management" definition where duties include only 7 of the 14 regulatory examples); *Donovan v. Burger King Corp.*, 672 F.2d 221, 226 (1st Cir. 1982) (assistant managers were properly treated as exempt because they supervised other employees even though they had no significant discretion in doing so).

employee discipline problems may spend significant time interviewing, selecting, training, evaluating, and disciplining subordinates. Differences also arise because higher-level managers approach their duties differently. District sales managers may cede to experienced store managers more latitude with respect to hiring and discipline than they will to rookie managers.

Given these variations, and given that "[d]etermination of whether an employee has management as his primary duty *must* be based on all the facts in a particular case," 29 C.F.R. § 541.103 (emphasis added), a finder of fact in the typical case is asked to weigh individually the mix of activities the plaintiff performed. In a collective action, where the exemption status of hundreds, or even thousands, of managers may be at stake, unless all of the managers at issue have performed the same mix of duties, the finder of fact cannot possibly decide the fate of the entire group collectively because it cannot, as the DOL has insisted, make the exemption "determin[ation] on a case-by-case basis." 29 C.F.R. § 541.106(a).

The decision below leaves no room for individualized, nuanced decision-making. The Eleventh Circuit did not require a degree of homogeneity that would have permitted a jury fairly to consider the fate of the entire group. Rather, the court concluded that every one of the 1,424 plaintiffs was "similarly situated" to every other plaintiff simply because they "shared a number of factual details with respect to their job duties and day-to-day work [and] share[d] common job traits." *Morgan*, 551 F.3d at 1263. Because the district court permitted the jury to decide the fate of all 1,424 plaintiffs on the basis

of the testimony of just seven individuals, all of the individual claims were determined by the jury's consideration of those seven individuals.[16]

A brief comparison of the procedure used below and that employed in the more familiar discrimination class action context is illuminating. A pattern or practice discrimination case is usually tried in two phases. During the first phase, the employer's liability to the class as a whole for declaratory and injunctive relief is at stake. If the employer is found liable, the case then proceeds to phase two, where the question becomes whether the

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16. This use of representative testimony was error. *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946) (*superseded in part* by the Portal-to-Portal Act), approved the use of representative evidence in FLSA cases to prove damages when the employer lacks adequate records on the question. Nothing in *Mt. Clemens*, however, suggested that representative evidence could *ever* be used to prove employer liability or to obtain collective action status. Even as to damages, the courts of appeals have imposed substantial restrictions on the use of representative evidence. *Compare Reich v. Southern Md. Hosp., Inc.*, 43 F.3d 949, 952 (4th Cir. 1995) (testimony of 54 employees on behalf of 3,368 plaintiffs in an FLSA collective action was insufficient to support a judgment for all plaintiffs) and *Secretary of Labor v. DeSisto*, 929 F.2d 789, 793 (1st Cir. 1991) (testimony of one employee cannot establish FLSA damages in a case involving 244 employees holding a variety of positions at different locations) *with Donovan v. Williams Oil Co.*, 717 F.2d 503 (10th Cir. 1983) (testimony of 19 station attendants supported an award to 34 employees); *Donovan v. New Floridian Hotel, Inc.*, 676 F.2d 468 (11th Cir. 1982) (testimony of 23 employees supported an award to 207 employees); *Brennan v. General Motors Acceptance Corp.*, 482 F.2d 825 (5th Cir. 1973) (upholding award where 16 employees testified on behalf of 37 employees).

employer is liable to *individual members of the class* and if so, for how much.[17] The employer is never obligated to pay damages of any sort to any class member unless it is first determined during phase two that the specific claimant at issue had been a victim of the pattern of discrimination found to exist at phase one; simply being a member of the class is not enough.[18]

As the courts below conceived the FLSA collective action, however, there *is* no phase two, and no opportunity for a fact finder to consider "all the facts in [each] particular case." Here, Petitioner was held liable to the entire group of 1,424 based on conclusions reached after hearing about the duties performed by seven individuals presumably handpicked by Respondents' counsel *precisely because* they performed fewer managerial duties than the rest of the group, and performed them less often.[19]

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17. *International Broth. of Teamsters v. United States*, 431 U.S. 324, 361-62 (1977).

18. *Teamsters*, 431 U.S. at 368-71 (finding of liability necessary "with respect to each specific individual at the remedial hearings"). "It is the role of courts to provide relief to claimants, *in individual or class actions*, who have suffered, or will imminently suffer, actual harm." *Lewis v. Casey*, 518 U.S. 343, 349 (1996) (emphasis added). Damages cannot be awarded based "merely [on] the status of being subjected to [an] institution that was not organized or managed properly." *Mayweathers v. Newland*, 258 F.3d 930, 934 (9th Cir. 2001) (quoting *Lewis*, 518 U.S. at 350) (emphasis added); *Bishopp v. District of Columbia*, 57 F.3d 1088, 1092 (D.C. Cir. 1995) (same; "remedial authority is limited to 'actual victims' of discrimination").

19. The court limited each side to 40 hours of trial testimony. *See Morgan*, 551 F.3d at 1278.

This process cannot be reconciled with even the most rudimentary notions of fairness. Had the district court used the standard commonly employed in other types of employment litigation, it would have insisted that "all of the relevant aspects of [the opt-in plaintiffs'] employment situation [be] nearly identical."[20] Employing such a standard would have ensured that the finder of fact could efficiently and fairly decide the fate of all plaintiffs — testifying and non-testifying alike — on the basis of representative testimony, and it would have safeguarded the most fundamental due process protections afforded litigants. Non-testifying plaintiffs would have been assured that their claims were being prosecuted by individuals with interests essentially indistinguishable from theirs. The defendant would not have been held liable to individuals whose claims were materially different from those individuals available to question at trial. *Cf. Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 846 (1999) (due process implicated when the "day-

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20. *Pierce*, 40 F.3d at 802. *See also Willis v. Town of Marshall, N.C.*, 275 Fed. Appx. 227, 233 (4th Cir. 2008) (to demonstrate that comparators are "similarly situated" plaintiff's evidence "must show an extremely high degree of similarity" between herself and the comparator(s)) (internal quotations omitted); *Runnels v. Texas Children's Hospital Select Plan*, 167 Fed. Appx. 377, 385 (5th Cir. 2006) (appellants failed to show that they are "similarly situated as to all the factors" to their comparators, and failed to show "nearly identical" circumstances); *Morris v. Family Dollar Stores of Ohio, Inc.*, No. 07-3417, 2009 WL 899894, at *8 (6th Cir. Mar. 21, 2009) (plaintiff's employment situation and that of his comparators must be "nearly identical" to be "similarly situated"); *Rioux v. City of Atlanta, Ga.*, 520 F.3d 1269, 1280 (11th Cir. 2008) (facts related to comparators must "be nearly identical to prevent courts from . . . confusing apples with oranges").

in-court ideal" is infringed); *Hansberry v. Lee*, 311 U.S. 32, 44-45 (1940) (due process is offended when rights of absent parties determined by testimony from those "whose interests are not necessarily or even probably the same as those [by] whom they are deemed to [be] represent[ed]"). No such protections were afforded the litigants here.[21]

III. Because The Eleventh Circuit Rejected Explicit DOL Guidance On The Merits Of The Exemption Question, The Decision Below, If Left Intact, Will Ensure That It Becomes The Circuit Of Choice For All Exemption Cases

As noted above, the feckless standard adopted by the courts below for collective action certification will draw plaintiffs from around the country, limiting further the already remote chances of developing an inter-circuit division of authority on the meaning of the "similarly situated" standard. The Eleventh Circuit will be

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21. The Eleventh Circuit also noted that, because Petitioner had classified its store managers as a group, it was not unfair to have their exempt status determined as a group. In addition to ignoring reality — employers of any size have no alternative but to classify jobs as a group — this idiosyncratic "waiver" analysis is incompatible with orthodox FLSA principles. *See, e.g., Reich v. John Alden Life Ins. Co.*, 126 F.3d 1, 10 (1st Cir. 1997) ("the particular title given to an employee is not determinative"); *Mullins v. City of New York*, 523 F. Supp. 2d 339, 351 (S.D.N.Y. 2007) (quoting 29 C.F.R. § 541.2) ("A job title alone is insufficient to establish the exempt status of an employee"); *Geer v. Challenge Financial Investors Corp.*, No. 05-1109-JTM, 2007 WL 1626494, at *2 (D. Kan. May 30, 2007) (employee's "title alone does not determine whether she meets the executive or managerial exemption to the FLSA").

particularly alluring in cases involving the FLSA's *bona fide* executive exemption because the substantive standard adopted by the Eleventh Circuit rejects (in many instances without mentioning) explicit, relatively recent DOL guidance on point and repudiates years of settled law in order to arrive at a mistakenly cramped construction of that exemption.

The Eleventh Circuit's most adventurous change to FLSA exemption law relates to the weight it placed on the time devoted by Family Dollar store managers to managerial duties. Time and again — no fewer than ten times during the course of its opinion — the court returned to the observation that Petitioner's "store managers spent only 10 to 20% of their time performing exempt work" and 80-90% of their time on non-exempt tasks. *See, e.g., Morgan*, 551 F.3d at 1269.

The underlying evidence on this point was hotly contested below, but that contest should have been irrelevant to the merits determination. DOL has confirmed that "*particularly in restaurant and retail settings*," employees may well be exempt *even if they spend up to 90% of their time on non-exempt tasks.* 69 Fed. Reg. at 22,136-37 (Apr. 23, 2004) (emphasis added). In confirming this long-understood proposition, DOL cited with approval some of the decisions adopting this approach to the exemption: *Jones v. Virginia Oil Co.*, 69 Fed. Appx. 633, 635-38 (4th Cir. 2003) (restaurant manager testified that *70-80% of her time was spent on non-exempt duties*; held manager was exempt "captain of the ship"); *Murray v. Stuckey's, Inc.*, 939 F.2d 614, 617-19 (8th Cir. 1991), *cert. denied* 502 U.S. 1073 (1992) (store managers who spend *up to 90 percent of their*

time on "routine non-management jobs such as pumping gas, mowing the grass, waiting on customers and stocking shelves" were exempt managers); *Donovan*, 672 F.2d at 223-27 (restaurant assistant managers who performed non-exempt work the majority of the time were nevertheless exempt); *Kastor v. Sam's Wholesale Club*, 131 F. Supp. 2d 862, 863-70 (N.D. Tex. 2001) (retail bakery manager was exempt even though *he performed non-exempt work 90% of the time*); and *Horne v. Crown Central Petroleum, Inc.*, 775 F. Supp. 189, 190-91 (D.S.C. 1991) (convenience store manager held exempt even though she performed management duties "simultaneously with assisting the store clerks in waiting on customers"; nonexempt tasks were "not nearly as crucial to the store's success as were the management functions").[22]

DOL and the courts agree that in most settings, the proper inquiry focuses on whether the management

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22. The DOL relied on these decisions in its new FLSA regulations addressing the "special circumstances of retail supervisors." 69 Fed. Reg. at 22,136. For instance, the new regulations recognize that separating a retail manager's exempt duties from nonexempt tasks is difficult if not impossible. Instead, the realities of the job require the manager, for example, to "supervise employees and serve customers at the same time." 29 C.F.R. § 541.106(b) (2006). Thus, the new regulations specify that "managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget[,] and authorizing payment of bills may have management as their primary duty" despite spending "more than 50 percent of the time performing nonexempt work such as running the cash register." *Id.* § 541.700(c); *see also* 69 Fed. Reg. at 22,136–37, 22,185–85.

functions are "of principal importance *to the employer*," not the amount of time devoted to particular tasks. *Schaefer v. Indiana Michigan Power Co.*, 358 F.3d 394, 401 (6th Cir. 2004) (emphasis added); *accord* 69 Fed. Reg. at 22,137 (Apr. 23, 2004). The Eleventh Circuit did not meaningfully discuss DOL's view of this factor or conclude that its view was entitled to no deference under applicable principles of administrative law; it simply ignored the issue.

Similarly, although the court below conceded that Petitioner's store managers had unilateral authority to hire some hourly workers, it repeatedly emphasized that they lacked the authority unilaterally to hire or terminate assistant store managers. *See, e.g., Morgan*, 551 F.3d at 1263 n.42, n.44. This suggests another sharp departure from DOL regulations and settled circuit law. First, the authority to hire cashiers should have independently satisfied the "hiring" prong of the DOL's managerial function test regardless of the manager's authority with respect to assistant managers. The Eleventh Circuit cited no law suggesting that a store manager must have the authority unilaterally to hire *everyone* who works in the store to satisfy this aspect of the test.

More fundamentally, the court was apparently under the impression that the store manager's participation in the hiring and firing processes did not "count" for purposes of the exemption test because their authority in those areas was not total: "Although store managers interview and recommend hourly associate candidates, they need district manager approval to hire them. The district manager — not the store manager — also has

the authority to terminate employees. . . ." *Morgan*, 551 F.3d at 1256.

The DOL regulations on this subject are unambiguous. An employee engages in a managerial function when she *recommends* that the employer hire, fire, or promote another person so long as those recommendations are given "particular weight." 29 C.F.R. §§ 541.100(a)(4), 541.105. The court of appeals found it significant that "Family Dollar's policies do not *require* that store managers' hiring or firing recommendations be given any particular weight," *Morgan*, 551 F.3d at 1256 (emphasis added), but the content of Petitioner's written policies should have been irrelevant if those recommendations were *in fact* given weight.

In these respects and many others, the court below re-made the law applicable to FLSA cases like this one in a way that makes it much harder than the DOL envisioned for employers to satisfy the managerial exemption. Some courts have observed that "[i]t is virtually impossible to conceive of a free standing business location without a 'manager.' [A retail enterprise cannot be] manage[d] by remote control." *Bosch v. Title Max, Inc.*, No. CIV.A.03-AR-0463-S, 2005 WL 357411, at *9 (N.D. Ala. Feb. 7, 2005); *see Murray*, 939 F.2d at 618 ("the person 'in charge' of a store has management as his primary duty, even though he spends the majority of his time on non-exempt work and makes few significant decisions.").

The Eleventh Circuit's relaxed standards of proof for plaintiffs already attract more FLSA cases, by far, than any other Circuit. The extraordinary departures from settled law represented in this case seem destined to ensure that the pace of this phenomenon will accelerate with even greater velocity, making it even less likely that an inter-circuit division of authority develops in the future. The question presented is important, the confusion over the applicable standard is intolerable, and the time has come to provide district courts with the guidance for which they have asked.

CONCLUSION

The petition should be granted.

Respectfully submitted,

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APPENDIX

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No.	Case
1.	*White v. Rakhra Mushroom Farm Corp.*, No. CV 08-198-SU, 2009 WL 971857 (D. Or. Apr. 08, 2009) (slip copy)
2.	*Bishop v. AT & T Corp.*, — F.R.D. ——, Civil Action No. 08-468, 2009 WL 763946 (W.D. Pa. Mar. 23, 2009)
3.	*Labrie v. UPS Supply Chain Solutions, Inc.*, No. C08-3182 PJH, 2009 WL 723599 (N.D. Cal. Mar. 18, 2009) (slip copy)
4.	*Merritt v. Wellpoint, Inc.*, Action No. 3:08-CV-272, 2009 WL 482807 (E.D.Va. Feb. 25, 2009) (slip copy)
5.	*Gilbert v. Citigroup, Inc.*, No. 08-0385 SC, 2009 WL 424320 (N.D. Cal. Feb.18, 2009) (slip copy)
6.	*Rodriguez v. SGLC, Inc.*, No. 2:08-cv-01971-MCE-KJM, 2009 WL 454613 (E.D. Cal. Feb. 05, 2009)
7.	*Greenwald v. Phillips Home Furnishings Inc.*, No. 4:08CV1128 CDP, 2009 WL 259744 (E.D. Mo. Feb. 03, 2009) (slip copy)
8.	*Jost v. Commonwealth Land Title Ins. Co.*, No. 4:08CV734 CDP, 2009 WL 211943 (E.D. Mo. Jan. 27, 2009) (slip copy)

9. *Davis v. Westgate Planet Hollywood Las Vegas, LLC,* No. 2:08-cv-00722-RCJ-PAL , 2009 WL 102735 (D. Nev. Jan. 12, 2009) (No. 2:08-cv-00722-RCJ-PAL.) (slip copy)

10. *Gil v. Solectron Corp.*, No. C-07-06414 RMW, 2009 WL 88346 (N.D. Cal. Jan. 09, 2009) (slip copy)

11. *Houston v. URS Corp.*, 591 F.Supp.2d 827 (E.D. Va 2008)

12. *Olmsted v. Residential Plus Mortgage Corp.*, Nos. 08 C 142 and 08 C 419, 2008 WL 5157973 (N.D. Ill. Dec.09, 2008) (slip copy)

13. *McKinney v. United Stor-All Ctrs., Inc.*, 585 F.Supp.2d 6 (D.D.C. 2008)

14. *Wacker v. Personal Touch Home Care, Inc.*, No. 4:08CV93 CDP, 2008 WL 4838146 (E.D. Mo. Nov. 06, 2008) (slip copy)

15. *Mancia v. Mayflower Textile Servs. Co.*, Civil Action No. CCB-08-273, 2008 WL 4735344 (D. Md. Oct. 14, 2008) (slip copy)

16. *Parker v. NutriSystem, Inc.*, NO. CIV. A. 08-1508, 2008 WL 4399023 (E.D. Pa. Sept. 26, 2008) (slip copy)

17. *Russell v. Wells Fargo & Co.*, No. C 07-3993 CW, 2008 WL 4104212 (N.D. Cal. Sept. 03, 2008)

18. *Hoffman v. Securitas Sec. Servs.*, No. CV07-502-S-EJL, 2008 WL 5054684 (D. Idaho Aug. 27, 2008) (slip copy)

19. *Escobar v. Whiteside Constr. Corp.*, No. C 08-01120 WHA , 2008 WL 3915715 (N.D. Cal. Aug. 21, 2008) (slip copy)

20. *Rivera v. Solstice Capital Group Inc.*, No. CV 07-1852 PSG (VBKx), 2008 WL 4384123 (C.D. Cal. Aug. 21, 2008)

21. *Bishop v. Petro-Chemical Transp., LLC*, 582 F.Supp.2d 1290 (E.D. Cal. 2008)

22. *Norman v. Dell, Inc.*, Civil No. 07-6028-TC, 2008 WL 2899722 (D. Or. July 10, 2008)

23. *Roussell v. Brinker Int'l., Inc.*, Civil Action No. H-05-37332008, WL 2714079 (S.D. Tex. July 09, 2008)

24. *Bouaphakeo v. Tyson Foods, Inc.*, 564 F.Supp.2d 870 (N.D. Iowa 2008)

25. *Balarezo v. NTH Connect Telecom, Inc.*, No. C 07-5243 JF (PVT), 2008 WL 1944116 (N.D. Cal. May 02, 2008) (slip copy)

26. *Chabrier v. Wilmington Fin., Inc.*, Civil Action No. 06-4176, 2008 WL 938872 (E.D. Pa. Apr. 04, 2008) (slip copy)

27. *Mowdy v. Beneto Bulk Transp.*, No. C 06-05682 MHP, 2008 WL 901546 (N.D. Cal. Mar. 31, 2008) (slip copy)

28. *Beauperthuy v. 24 Hour Fitness USA, Inc.*, No. 06-0715 SC, 2008 WL 793838 (N.D. Cal. Mar. 24, 2008) (slip copy)

29. *Salazar v. Agriprocessors, Inc.*, No. 07-CV-1006-LRR, 2008 WL 782803 (N.D. Iowa, Mar.17, 2008) (slip copy)

30. *Cranney v. Carriage Servs., Inc.*, No. 2:07cv-1587-RLH-PAL, 2008 WL 608639 (D. Nev. Feb. 29, 2008) (slip copy)

31. *Acevedo v. Ace Coffee Bar, Inc.*, 248 F.R.D. 550 (N.D. Ill. 2008)

32. *Centurioni v. City and County of S.F.*, No. C 07-01016 JSW, 2008 WL 295096 (N.D. Cal. Feb. 01, 2008) (slip copy)

33. *Falcon v. Starbucks Corp.*, 580 F.Supp.2d 528 (S.D. Tex. 2008)

34. *Huang v. Gateway Hotel Holdings*, 248 F.R.D. 225 (E.D. Mo. 2008)

35. *Sjoblom v. Charter Commc'ns, LLC*, NO. 3:07-CV-0451-BBC, 2007 WL 4560541, (W.D. Wis. Dec.19, 2007)

36. *Williams v. Trendwest Resorts, Inc.*, No. 2:05-cv-00605-RCJ-LRL, 2007 WL 3343077, (D. Nev. Oct. 30, 2007)

37. *In re Wells Fargo Home Mortgage Overtime Pay Litig.*, 527 F.Supp.2d 1053 (N.D. Cal. 2007)

38. *Pagliolo v. Guidant Corp.*, NO. CIV. 06-943DWFSRN, 2007 WL 2892400 (D. Minn. Sept. 28, 2007)

39. *Khan v. Cougar Stop, Inc.*, Civil Action No. H-06-2862, 2007 WL 2777774 (S.D. Tex. Sept. 21, 2007)

40. *Prentice v. Fund for Pub. Interest Research, Inc.*, No. C-06-7776 SC, 2007 WL 2729187 (N.D. Cal. Sept. 18, 2007)

41. *Grace v. Family Dollar Stores, Inc.*, No. 3:06CV306, 2007 WL 2669699 (W.D.N.C. Sept. 06, 2007)

42. *Schleipfer v. Mitek Corp.*, No. 1:06CV109 CDP, 2007 WL 2485007 (E.D. Mo. Aug. 29, 2007)

43. *Johnson v. Big Lots Stores, Inc.*, Civil Action Nos. 04-3201, 05-6627, 2007 WL 5200224 (E.D. La. Aug. 21, 2007) (slip copy)

44. *Godfrey v. Chelan County PUD*, No. CV-06-00332-JLQ, 2007 WL 2327582 (E.D. Wash. Aug. 10, 2007)

45. *Delgado v. Ortho-McNeil, Inc.*, No. SACV07-263CJCMLGX, 2007 WL 2847238 (C.D. Cal. Aug. 07, 2007)

46. *Burk v. Contemporary Home Servs., Inc.*, No. C06-1459RSM, 2007 WL 2220279 (W.D. Wash. Aug. 01, 2007)

47. *Perry v. National City Mortgage, Inc.*, No. 05-cv-891-DRH, 2007 WL 1810472 (S.D. Ill. June 21, 2007)

48. *Adams v. Inter-Con Sec. Sys., Inc.*, 242 F.R.D. 530 (N.D. Cal. 2007)

49. *Arnel Agdipa v. Grant Joint Union High School Dist.*, No. Civ. S-06-1365 DFL DAD, 2007 WL 1106099 (E.D. Cal. Apr. 10, 2007)

50. *Brothers v. Portage Nat'l Bank*, Civil Action No. 3:06-94, 2007 WL 965835 (W.D. Pa. Mar. 29, 2007)

51. *Villanueva-Bazaldua v. TruGreen Ltd. Partners*, 479 F.Supp.2d 411 (D. Del. 2007)

52. *Sharer v. Tandberg, Inc.*, No. 1:06cv626 (JCC), 2007 WL 676220 (E.D. Va. Feb. 27, 2007)

53. *Westfall v. Kendle Int'l, CPU, LLC*, Civil Action No. 1:05-cv-00118, 2007 WL 486606 (N.D.W. Va. Feb. 15, 2007)

54. *Ledbetter v. Pruitt Corp.*, Civil Action No. 5:05-CV-329 (CAR), 2007 WL 496451, (M.D. Ga. Feb. 12, 2007)

55. *Benson v. West Coast Constr.*, No. C06-1630RSM, 2007 WL 445456 (W.D. Wash. Feb. 06, 2007)

56. *Simmons v. T-Mobile USA, Inc.*, Civil Action No. H-06-1820, 2007 WL 210008 (S.D. Tex. Jan. 24, 2007)

57. *Enkhbayar Choimbol v. Fairfield Resorts, Inc.*, 475 F.Supp.2d 557 (E.D. Va. 2006)

58. *Avila v. Turlock Irrigation Dist.*, No. 1:06-CV-00050 OWW SMS, 2006 WL 3201083 (E.D. Cal. Nov. 06, 2006) (slip copy)

59. *Morden v. T-Mobile USA, Inc.*, No. C05-2112RSM, 2006 WL 2620320 (W.D. Wash. Sept. 12, 2006)

60. *Aquilino v. Home Depot, Inc.*, No. CIV 04-CV-4100 PGS, 2006 WL 2583563 (D. N.J., Sept. 07, 2006)

61. *Foraker v. Highpoint Sw., Servs., L.P.*, Civil Action No. H-06-1856, 2006 WL 2585047 (S.D. Tex. Sept. 07, 2006) (slip copy)

62. *Lenahan v. Sears, Roebuck and Co.*, Civ. No. 02-0045, 2006 WL 2085282 (D.N.J. July 24, 2006)

63. *West v. Border Foods, Inc.*, Civil No. 05-2525 (DWF/RLE), 2006 WL 1892527 (D. Minn. July 10, 2006)

64. *Rollison v. CC Servs., Inc.*, NO. 05-CV-4193-DRH, 2006 WL 1596824, (S.D. Ill. June 06, 2006)

65. *Armstrong v. Weichert Realtors*, Civil Action No. 05-3120 (JAG), 2006 WL 1455781, (D.N.J. May 19, 2006) (slip copy)

66. *Romero v. Producers Dairy Foods, Inc.*, 235 F.R.D. 474 (E.D. Cal. 2006)

67. *Hayes v. Laroy Thomas, Inc.*, No. 5:05CV227, 2006 WL 1004991 (E.D.Tex. Apr. 18, 2006)

68. *Gerlach v. Wells Fargo & Co.*, No. C 05-0585 CW, 2006 WL 824652 (N.D. Cal. Mar. 28, 2006)

69. *Rees v. Souza's Milk Transp., Co.*, No. CVF0500297 AWI LJO, 2006 WL 738987 (E.D. Cal. Mar. 22, 2006)

70. *Landsberg v. Acton Enters., Inc.*, No. 2:05-CV-0500, 2006 WL 745178 (S.D. Ohio Mar. 22, 2006)

71. *Austin v. CUNA Mut. Ins. Soc.*, 232 F.R.D. 601 (W.D. Wis. 2006)

72. *Moeck v. Gray Supply Corp.*, No. 03-1950 (WGB), 2006 WL 42368 (D.N.J. Jan. 06, 2006)

73. *De la Cruz v. El Paso County Water Imp. Dist. No. 1*, No. EP-05-CV-206-FM, 2005 WL 2291015 (W.D. Tex. Sept.19, 2005)

74. *Clarke v. Convergys Customer Mgmt Group, Inc.*, 370 F.Supp.2d 601 (S.D. Tex. 2005)

75. *Kalish v. High Tech Inst., Inc.*, No. Civ.04-1440(JRT/JSM), 2005 WL 1073645 (D. Minn. Apr. 22, 2005)

76. *Patton v. Thomson Corp.*, 364 F. Supp. 2d 263 (E.D.N.Y. 2005)

77. *Leuthold v. Destination Am., Inc.*, 224 F.R.D. 462 (N.D. Cal. 2004)

78. *Hoffman v. Constr. Protective Servs., Inc.*, NO. EDCV03-01006VAPSGLX, 2004 WL 5642136 (C.D. Cal. July 13, 2004)

79. *Johnson v. TGF Precision Haircutters, Inc.*, 319 F. Supp. 2d 753 (S.D. Tex. 2004)

80. *Dorsey v. J & V Commc'n Servs., Inc.*, Civil Action No. H-04-0496, 2004 WL 5621864 (S.D. Tex. May 19, 2004) (slip copy)

81. *Mielke v. Laidlaw Transit, Inc.*, 313 F. Supp. 2d 759 (N.D. Ill. Mar. 04, 2004)

82. *Pfohl v. Farmers Ins. Group*, No. CV03-3080 DT (RCX), 2004 WL 554834 (C.D. Cal. Mar. 01, 2004)

83. *Villatoro v. Kim Son Rest., L.P.*, 286 F. Supp. 2d 807 (S.D. Tex. 2003)

84. *Vazquez v. Tri-State Mgmt. Co.*, Inc., NO. 01C5926, 2002 WL 58718 (N.D. Ill. Jan. 14, 2002)

85. *Reeves v. Alliant Techsystems, Inc.*, 77 F. Supp. 2d 242 (D.R.I. 1999)

86. *Realite v. Ark Rests. Corp.*, 7 F.Supp.2d 303 (S.D.N.Y. 1998)

87. *Bayles v. American Med. Response of Colo., Inc.*, 950 F.Supp. 1053 (D.Colo. 1996)